Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/23**

Paper 2 Data Response **October/November 2016**

1 hour 30 minutes

No Additional Materials are required.



READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

Answer **one** question.

The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **5** printed pages, **3** blank pages and **1** insert.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 Joshua has just started a business which develops computer games. It is located on the first floor of an old building and there is no lift. Joshua has borrowed £30 000 to start the business. He always holds his team meetings at 09.00. Joshua has an idea for a game which he believes will be a global success and advertises on the Internet for new employees. The application form gives applicants the opportunity to disclose any disabilities.

Many people apply and after interviews the following are appointed:

Dominic, who previously worked with Joshua, has recently been diagnosed with a muscle wasting disease and he will soon have to use a wheelchair. Dominic has not told Joshua about his condition.

Connie, a highly qualified accountant, is partially sighted and will need all the business accounts produced in large print on special paper. Joshua can get this done at a cost of £1000 per year. Connie wants to bring her guide dog to work but Joshua is severely allergic to dogs.

Sanjay has successfully marketed several computer games but he recently had a serious motorcycle accident. This means he has to go for an hour long physiotherapy session three times a week at 08.30 and he cannot work for long periods unless he has a special type of chair which costs £1500.

(a) Explain how the Disability Discrimination Act 1995 will apply to Dominic. [10]

(b) Explain how the Disability Discrimination Act 1995 will apply to Connie. [10]

(c) Explain how the Disability Discrimination Act 1995 will apply to Sanjay. [10]

(d) Describe the role of tribunals and critically evaluate their effectiveness. [20]

Source Material for Question 1

Disability Discrimination Act 1995

Section 6 Duty of employer to make adjustments.

(1) Where—

(a) any arrangements made by or on behalf of an employer, or

(b) any physical feature of premises occupied by the employer, place the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the employer to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to prevent the arrangements or feature having that effect.

…

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(3) The following are examples of steps which an employer may have to take in relation to a disabled person in order to comply with subsection (1)—

(a) making adjustments to premises;

…

(d) altering his working hours;

…

(f) allowing him to be absent during working hours for rehabilitation, assessment or treatment;

…

(h) acquiring or modifying equipment;

(i) modifying instructions or reference manuals.

(4) In determining whether it is reasonable for an employer to have to take a particular step in order to comply with subsection (1), regard shall be had, in particular, to—

…

(b) the extent to which it is practicable for the employer to take the step;

(c) the financial and other costs which would be incurred by the employer in taking the step and the extent to which taking it would disrupt any of his activities;

(d) the extent of the employer's financial and other resources.

…

(6) Nothing in this section imposes any duty on an employer in relation to a disabled person if the employer does not know, and could not reasonably be expected to know—

…

(b) that that person has a disability and is likely to be affected in the way mentioned in subsection (1).

2 **(a)** Lionel is a member of the crew on a United Kingdom ship. He is a navigator and needs his glasses to read marine charts. When the ship is in port in China, Lionel's glasses get broken. The ship is leaving the next day and the optician charges Lionel five times the normal price for new glasses. Lionel's wife is travelling with him and she has a filling in one of her teeth whilst the ship is in port. The captain of the ship says Lionel will have to pay for the glasses and his wife's filling out of his wages.

Explain how the Merchant Shipping Act 1995 will help Lionel if he wants to make a claim. [10]

(b) Wilbur is also a member of the crew. The owner promises a bonus of £5000 if the ship reaches its destination in two weeks. The final cargo containers are loaded in a hurry and the captain orders the ship to depart immediately. At sea there is a storm. Some cargo containers become unsafe and one of the engines fails. Wilbur is injured trying to secure a container.

The voyage takes three weeks. Wilbur overhears the engineer say to the captain, "I told you that engine needed fixing and those containers were not secure."

Explain how the Merchant Shipping Act 1995 will help Wilbur if he wants to make a claim. [10]

(c) Steve has an agreement to work as a chef on a United Kingdom ship until 31 December and he is paid £200 per day. On 30 October the ship is in port in Japan. The captain tells Steve that the ship has been sold to a Greek company and his employment is terminated. The Greek company say they will employ Steve from 30 October as a chef on one of their ships and they will pay him £195 per day. Steve does not like the new ship and he fails to turn up for work.

Explain whether the Merchant Shipping Act 1995 will help Steve if he wants to make a claim. [10]

(d) Critically evaluate the rules of statutory interpretation. [20]

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Source Material for Question 2

Merchant Shipping Act 1995

Section 38 Right, or loss of right, to wages in certain circumstances.

…

(2) Where a United Kingdom ship is sold while outside the United Kingdom or ceases to be a United Kingdom ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.

(3) A seaman shall not be entitled to wages by virtue of subsection (2) above for a day on which he was unemployed, if it is shown—

(a) that the unemployment was not due to … the termination of his employment on the sale of the ship or its ceasing to be a United Kingdom ship; or

(b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

Section 42 Obligation of shipowners as to seaworthiness.

(1) In every contract of employment between the owner of a United Kingdom ship and the master of or any seaman employed in the ship there shall be implied an obligation on the owner of the ship that—

(a) the owner of the ship,

(b) the master of the ship, and

(c) every agent charged with—

(i) the loading of the ship,

(ii) the preparing of the ship for sea, or

(iii) the sending of the ship to sea,

shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the voyage during the voyage.

Section 45 Expenses of medical and other treatment during voyage.

(1) If a person, while employed in a United Kingdom ship, receives outside the United Kingdom any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him.

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