

***Ollscoil na hÉireann, Gaillimh***  
***National University of Ireland, Galway***

**Semester II Examinations, 2004**

Exam Code(s)	_____
Exam(s)	Bachelor of Corporate Law; Bachelor of Civil Law; BA Public and Social Policy; LLB (all years); Occasional Students.
Module Code(s)	LW 216
Module(s)	Labour Law
Paper No.	_____
Repeat Paper	Special Paper
External Examiner(s)	_____
Internal Examiner(s)	Ms. Ursula Connolly
<b><u>Instructions:</u></b>	Please answer three questions. All questions carry equal marks. Please indicate on your answer books which questions have been attempted.
Duration	2 hrs
No. of Answer books	_____
<b><u>Requirements:</u></b>	
Other Material	<i>Safety, Health and Welfare at Work Act 1989</i> <i>General Applications Regulations 1993 (S.I. 44/93)</i> <i>General Applications (Amendment) Regulations 2003 (S.I. 53/2003)</i> <i>Industrial Relations Act 1990.</i>
Department(s)	Law

**PTO**

1. Adam has worked as a chef in the staff canteen of Tuam County Council for the past 18 months. Tuam County Council has decided to contract out their catering to an outside firm, Monster Munches, in order to cut costs. To this end it has offered Adam a redundancy payment in order to terminate his employment. If he rejects the offer of redundancy Monster Munches has offered to re-employ him. However, his terms and conditions of employment with Monster Munches will require him to work longer hours with no additional pay. His holidays will also be reduced from 25 days to the statutory minimum of 20.

Adam has heard that he may have certain rights under the Transfer of Undertakings Regulations 1981 (as amended) and asks you to advise him. Please do so.

2. Danger Construction Co. Ltd. is a large construction company based in Limerick. Recently, Tom, an employee, has become increasingly concerned as to the level of safety on the site at which he works. The entrance to the workplace has become so obstructed that on a number of occasions Tom has tripped and fallen over discarded bricks which have not been removed. In addition, despite his repeated requests he has not been issued with a safety helmet or safety boots. His employer informed him that if Tom feels that he needs such protective clothing it is up to Tom to buy it himself. Recently a new employee has started working on the site who, although employed to erect scaffolding on the outside of the building, obviously has no experience in such work. Tom is worried that the scaffolding may be unsafe and may injure not only the workers but passers-by. His repeated attempts to discuss it with his employer have been ignored. Tom is becoming increasingly stressed by the worsening standards and seeks your advice.

Please advise him.

3. 'The effect of the Supreme Court decision in *Nolan Transport v. Halligan* [1998] ELR 177 is to free internal trade union matters from unwarranted judicial interference.'

Please discuss critically. '3

4. The increasing statutory protection of atypical workers (i.e. fixed-term and part-time workers) has led to unnecessary interference with contractual flexibility.

Please discuss.

PTO

5. Quality Furniture Ltd employs over 30 carpenters in its Galway factory, all of whom are members of the Craftsmen Union of Ireland (CUI). The CUI has read newspaper reports that Quality Furniture proposes to cut the salary of its employees by 5% to cope with increased competition. The company has assured its Galway workers that the article referred to one of their factories in England and that this would not affect any of their operations in Ireland. The CUI contends that the company is compelled to enter discussions with them in relation to the threat to pay but the management of Quality Furniture refuse, stating that they have never recognised the CUI. The CUI, acting on the outcome of a secret ballot, arrange for the picketing of Quality Furniture factories in Galway, Sligo and Cork to compel union recognition and the right to represent its members on the pay issue. They are heartened to receive support on the picket line not only from other members of their union but also from the families of the Galway factory employees. Some members of CUI also arrange pickets at the home of one of the managers of Quality Furniture. Advise Quality Furniture.

6. Please answer either (a) or (b)

(a) Paula has been employed with Boys Club Inc. for the past 4 months as a sales executive. She enjoys her job and has a good working relationship with her colleagues and with her employer Bob. Paula is paid on a monthly basis, and it is regular practice for the company, for the purpose of avoiding tax, to include in her expenses some element of payment which should properly be classed as salary. At a recent Sales Department meeting it was clear that Paula was not reaching the sales targets achieved by other executives or the targets set by the company as an expected monthly average. Bob, however, assured her that it was normal practice for new employees to be given a six-month period before they would have to be assessed by Departmental standards. Two weeks ago Paula gave her employer notice of her intention to take maternity leave in four months time. She has now been given notice to terminate her employment. Bob has explained that it was due to her inability to meet targets, and the likelihood in the company's opinion that she would not be able to improve on existing sales levels. He also added that she would not qualify for redress under legislation as she has not been employed for the required year and that, in any case, her contract is tainted with illegality by virtue of the tax avoidance scheme.

Advise Paula as to any action she can take.

**OR**

(b) Compare and contrast what you consider to be the principal differences between Irish and US law on unfair dismissals.

**END**