

SUMMER EXAMINATIONS 1998/99

LL.B. - ALL YEARS
OCCASIONAL STUDENTS

LABOUR LAW (LW320)

Mr. G. Whyte
Mr. M. O'Connor

Time Allowed: THREE Hours.
Answer FOUR Questions

1. You are an in house lawyer in a large company with a particular responsibility for personnel. In light of the Employment Equality Act, 1998 advise the company in respect of the following proposals which have been brought to your attention: The company propose to promote a male chemical engineer to a position of head of technical staff in the company as this person had a background in administration work which would be required on the job and also had a very high standing academically. The company see these characteristics as essential in maintaining production and also to maintain customer confidence. While there are several female chemical engineers in the company it would appear that none would be able to comply with the requirements of the company. These are general experience, administrative experience and academic recognition. The company's worry is that it may be sued for discrimination but feels it has no option but to protect its economic interest. Advise the Company.

The company has also furnished you with the proposed advertisement for a job on the factory floor the text of which is as follows, "*Person required to work as a general manual operative on the factory floor, part of his duties will be to carry extremely heavy objects such as litres of anti-freeze. Experience in the movement of bulky and heavy objects is an advantage*". The employer seeks advice on how to avoid responsibility for employing disabled people, and in particular wish to avoid undue expense if it is forced to employ disabled people.

2. "*The main difficulty with section 23 [the definition of sexual harassment in the 1998 Employment Equality Act] is that it mixes both subjective and objective standards regarding what conduct of behaviour constitutes harassment, without explaining precisely how each of these elements is measured*". Donnacha O'Connell "Equality Now" SIPTU 1999. Discuss with reference to the above, the effect section 23 will have on the area of sexual harassment.
3. Discuss the various modes of incorporation of the provisions of collective agreements into the contract of employment.

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4. Jack works in a pub as manager and has done for eight years. He has never been furnished with a written contract of employment despite several requests for the same. His tax has been deducted at source although his boss usually introduces him to others as the "landlord". Jack has become aware that recently his boss has been in discussion with Guinness in connection with the latter acquiring the premises and paying an annual rent. Since Christmas Jack has been isolated in the workplace and the new highly trained person from Guinness has been working along side Jack as "co. manager". Gradually Jack's functions have become more limited to the point that he spends most of his time feeding his pigeons. The other day Jack was called to a meeting with his boss and with the Guinness representatives and was informed that his "management contract" was coming to an end on the eighth anniversary of his starting work in the premises i.e. the 1st of April 1999. He was also told that the contract had been transferred to the new "manager" who was an agent of Guinness and that rent would be paid by Guinness in due course once the take over had commenced. All other staff in the bar are junior staff and are being kept on. Advise Jack.
5. Assess the impact of the Unfair Dismissal legislation to date and with particular emphasis on the excluded categories.
6. Answer (a) **AND** (b)
- (a) Discuss the averaging system employed under the Organisation Working Time Act 1997.
(b) Outline the main provisions of the Parental Leave Act of 1998.
7. Discuss the impact of the supreme court decision in Nolan Transport (Oakland's Limited) - vs - Halligan and Others 15 May 1998 Supreme Court, decision on the liability of trade unions for industrial action, and on the interpretation of the Industrial Relations Act 1990.
8. *"Trade union recognition - it hasn't gone away you know".* The recent call for labour court intervention to force defacto union recognition has refocused attention on this long standing issue. Discuss from a legal perspective.
9. Outline with some particularity the effect which the "General Application" Regulations implementing European Directives under section 28 of the Safety, Health and Welfare at Work Act, 1989 have had on employers' liability for injury at work.