Lesson Thirteen
Employment Law

As The Free Dictionary (www.thefreedictionary.com) defines employment law as the body of law that governs:

- the employer-employee relationship, including individual employment contracts,
- the application of tort and contract doctrines,
- the issues such as the right to organise and negotiate collective bargaining agreements, protection from discrimination, wages and hours, and health and safety.

Contract of Employment

The basic feature of employment law in almost every country is that the rights and obligations of the worker and the employer between one another are mediated through the contract of employment or an employment contract between the two. It is an agreement between an employer and an employee which sets out their employment rights, responsibilities and duties. These are called the ‘terms’ of the contract.

In the UK your employment contract doesn’t have to be in writing. However, you are entitled to a written statement of your main employment terms within two months of starting work. Having a written contract could cut out disputes with your employer at a later date, and will help you understand your employment rights.

You and your employer are bound to the employment contract until it ends (usually by giving notice) or until the terms are changed (usually in an agreement between you and your employer).

The main sections of the employment contract may include:

1. Term of employment
2. Probation
3. Compensation and benefits / Salary
4. Duties and responsibilities
5. Termination and notice
6. Confidentiality
7. Working hours
8. Annual leave
9. Sick leave
EXERCISE 1
Below you will find the excerpts from contracts of employment. Label them with the appropriate headings listed above.

A:
Your duties as ... are as follows:
- Developing ...
- Implementing ...
- Conducting ...
- Supervising ...
- Increasing ...
- Improving ...
- Reporting to ...

B:
The parties hereto agree that the initial six (6) month period of this agreement is "probationary".

C:
The Employee acknowledges that, in the course of performing and fulfilling his duties hereunder, he may have access to and be entrusted with confidential information concerning the present and contemplated financial status and activities of the Employer, the disclosure of any of which confidential information to competitors of the Employer would be highly detrimental to the interests of the Employer.

D:
Besides the gazetted public holidays, the Employee is entitled to fourteen (14) days paid annual leave upon the completion of one year’s service from the date of confirmation of the Employee’s employment.
The Employee is entitled to five (5) days of compassionate leave per calendar year upon the completion of the first year of service.

E:
The Employee’s starting basic monthly salary will be £ ... per month (...)
In addition, the Employee is entitled to receive benefits in accordance with the Employer’s standard benefit package, as amended from time to time.

F:
The Employee may terminate his employment at any time by providing the Employer with at least eight (8) weeks advance notice of his intention to resign.

G:
The Company’s working hours are Monday to Friday, from 9am to 6pm. The Employee is entitled to one hour of lunch break every day.

H:
The employment of the Employee shall commence the date hereof and continue for an indefinite term until terminated in accordance with the provisions of this agreement.

I:
The Employee must notify the Company and/or his/her immediate supervisor as soon as practicable if the Employee is unable to work for medical reasons. Such notice shall be given within the first four (4) hours of the working day.
Minimum Wage

Exercise 2

In the text below use the verbs in brackets in their correct form.

The National Minimum Wage (NMW) is a minimum amount per hour that most workers in the UK 1....................... (entitle) to be paid. If you 2............................. (pay) below the NMW you can contact the Pay and Work Rights helpline for confidential help. The minimum wage usually 3........................ (differ) from the lowest wage which 4................................. (determine) by the forces of supply and demand in a free market. In the UK the different levels of NMW 5..............................(depend) on your age. The current rates (from 1 October 2009) 6............................... (amount) to:

- £5.80 - the main rate for workers aged 22 and over
- £4.83 - the 18-21 rate
- £3.57 - the 16-17 rate for workers above school leaving age but under 18

If you are of compulsory school age you 7............................... (not/entitle) to the NMW. Some of your other employment rights are also different.

In 2009 the minimum wage in Poland 8................................. (calculate) at the level of PLN 1,276.

Being made redundant

Redundancy is a form of dismissal from the job, caused by the employer needing to reduce the workforce for various reasons, e.g. implementing new system or technology which makes some jobs unnecessary, the need to cut costs or closing down the business.

If the employer is making 20 or more employees redundant in one establishment within a 90 day period, this is a collective redundancy. If the employer is thinking about making collective redundancies, they have a duty to consult with the representatives of the employees’ trade union. If the employer fails to consult the representatives then a claim may be made to an Employment Tribunal for a protective award (a monetary award of up to 90 days pay).

Dismissal

Dismissal is when the employer ends the employee’s employment. This could happen in several ways, including:

- the employer the employee’s employment, with or without notice
- the employer constructively dismisses the employee by breaching the employment contract so badly that the employee is forced to leave
- fixed-term contract is not renewed.
A contract of employment is a legally binding agreement between the employee and the employer. A breach of contract happens when either one of the parties breaks one of the terms (for example, if the employer doesn't pay the employee wages, or the employee doesn’t work the agreed hours). If you do decide to take legal action, it can either be through an Employment Tribunal, which is usually cheaper and quicker, or through a civil court.

If the employee breaches the contract, the employer should try to settle the matter with the employee informally. If the employer suffers a financial loss because of the breach, they could make a complaint for damages against the employee.

The most common breaches of contract by an employee are when they quit without giving proper notice, or when they go to work for a competitor when their contract doesn’t allow it.

Unfair dismissal

Unfair dismissal is where the employer sacks the employee (or forces them to leave) without good reason or fails to follow fair dismissal procedures.

A dismissal could be automatically unfair if the employee is dismissed because they tried to claim one of their statutory employment rights. In most cases they need at least a year's service before they can make an unfair dismissal claim.

Wrongful dismissal

Wrongful dismissal is when the employer breaches the contract in dismissing the employee or forcing them to leave. For example, they could dismiss the employee without notice or without following their disciplinary and dismissal process.

Constructive dismissal

Constructive dismissal occurs when the employee is forced to quit their job against their will because of their employer’s behaviour occurs when employees resign because their employer’s behaviour has become so heinous or made life so difficult that they may consider themselves to have been fired. The employee must prove that the behaviour was unlawful. The reason for leaving your job must be serious - there must be a fundamental breach of contract, e.g.:

- not paying the employee or suddenly demoting for no reason
- forcing the employee to accept unreasonable changes to the conditions of employment without their agreement (e.g. suddenly telling them to relocate to another town, or making them work night shifts when the contract is only for day work)
- bullying, harassment or violence against the employee by work colleagues
- making the employee work in dangerous conditions.
Exercise 3

Scan the text above to find the words and phrases which are synonymous to the verbs:

<table>
<thead>
<tr>
<th>to employ</th>
<th>to dismiss</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Then use your dictionary and try to add as many words as you can.

Discrimination

Discrimination means treating some people differently from others. There are certain reasons that your employer can't discriminate against you for. You can’t be discriminated against because of your:

1. gender
2. marital status
3. gender reassignment
4. pregnancy
5. sexual orientation
6. disability
7. race
8. colour
9. ethnic background
10. nationality
11. religion or belief
12. age

Exercise 4

Read the descriptions of certain examples of recent discrimination cases. Use the words in brackets in the correct form. Later discuss on what grounds the claims could have been made. (all descriptions come from: www.emplaw.co.uk)

1. Ms Sarah Smith after having her fourth child she asked for a computer to .......................... (install) at her home so that she could do more of her work from home and to have flexible working hours so that she could have more contact with her children. Her requests ............................. (refuse).

2. Adam Michael applied for a job with British Fruit but ............................. (not shortlist) and ............................. (complain) to an employment tribunal that this was because he was of black Caribbean origin.

3. John Brown ............................. (refuse) a job in a coffee shop in the Waitrose store in Gillingham, Dorset, because of his beard. Paul Clarkson ............................. (dismiss) by his employers because he ............................. (grow) and ............................. (refuse) to cut a pony tail in contravention of his agreement to abide by the company's dress code.

4. Mrs Diane Knight............................. (claim) she "almost" had a miscarriage as a result of ............................. (bully) by her boss Michael Hymes at American Express.

5. Judy Hawk ............................. (wear) a trouser suit at her new job as a training manager with the Professional Golf Association. This ............................. (not allow) by their dress code which ............................. (require) women to wear skirts or dresses.

6. Maria King, a senior lawyer in the Crown Prosecution Service with 12 years' service, ............................. (win) a claim against the CPS on the basis that her male former superior
repeatedly ....................... (fail) to promote her after she ....................... (achieve) the required performance targets while white lawyers ....................... (promote) to management levels.

7. A female employed solicitor named Harriet Parker, who was pregnant, ....................... (dismiss) for misconduct. She had to ..........................(have) her baby ....................... (induce) at 23 weeks. The baby, Maria, was born alive but ....................... (die) soon afterwards as a result of being premature.

Exercise 5
Complete the table with missing verbs or nouns.

<table>
<thead>
<tr>
<th>Verb</th>
<th>Noun</th>
<th>Verb</th>
<th>Noun</th>
</tr>
</thead>
<tbody>
<tr>
<td>to employ</td>
<td>employment</td>
<td>to bully</td>
<td>a</td>
</tr>
<tr>
<td>to dismiss</td>
<td></td>
<td>to breach</td>
<td></td>
</tr>
<tr>
<td>to --------------</td>
<td>discrimination</td>
<td>to complain</td>
<td>resignation</td>
</tr>
<tr>
<td>to --------------</td>
<td>competition</td>
<td>to demote</td>
<td></td>
</tr>
<tr>
<td>to --------------</td>
<td>termination</td>
<td>to harassed</td>
<td></td>
</tr>
<tr>
<td>to provide</td>
<td></td>
<td>to redundancy</td>
<td></td>
</tr>
</tbody>
</table>

Glossary

to abide - przestrzegać
detrimental - szkodliwy
advance notice – wypowiedzenie z
disability - kalectwo
wyprzedzeniem
disclosure – wyjawienie informacji
to amend - poprawić
discrimination - dyskryminacja
annual leave - urlop
dissmissal - zwolnienie
benefit – świadczenie, dodatek
dispute - spór
breach of contract – naruszenie umowy
duty - obowiązek
bullying - zastraszanie
employee - pracownik
civil court – sąd cywilny
employer - pracodawca
collective bargaining – negocjacje w sprawie
employment contract – umowa o pracę
umowy zbiorowej
employment law – prawo pracy
collective redundancy – zwolnienie grupowe
employment rights – prawa pracownika
to commence - zaczynać
employment tribunal – sąd pracy
to amend - poprawić
official gazette

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hereof – od tej chwili
hereunder – zgodnie z niniejszą umową
to make a claim – złożyć pozew
to make sb. redundant – zwolnić
marital status – stan cywilny
miscarriage - poronienie
night shift – nocna zmiana
notice – wymówienie
the parties herto – strony zainteresowane
probation – okres próbny
probationary - próbny
protective award – odszkodowanie z tyt. zwolnienia grupowego
provision - postanowienie
to quit – zwolnić się z pracy
to relocate - przenieśd
to resign – ustąpić ze stanowiska
responsibility – odpowiedzialność, obowiązek
right - prawo
to sack - zwolnić
sick leave – zwolnienie lekarskie
statutory right – prawo ustawowe
take legal action – wystąpić na drogę sądową
term of employment – okres zatrudnienia
to terminate – wypowiedzieć (umowę)
termination – wypowiedzenie (umowy)
terms of the contract – warunki umowy
tort - delikt
trade union – związki zawodowe
unfair dismissal – nieuzasadnione zwolnienie z pracy
unlawful – bezprawny
wrongful dismissal – bezprawne zwolnienie
violence - przemoc
wages – płaca
without notice – bez wypowiedzenia

ANSWERS

Exercise 1:
A: Duties and responsibilities
B: Probation
C: Confidentiality
D: Annual leave
E: Compensation and benefits / Salary
F: Termination and notice
G: Working hours
H: Term of employment
I: Sick Leave

Exercise 2:
1. are entitled
2. are paid / are being paid
3. differ
4. is determined
5. depend
6. amount
7. are not entitled
8. has been calculated

Exercise 3:
to employ = to hire, to take on, recruit, to appoint
to dismiss = to make redundant, to sack, to give the sack, to fire, to give notice, to terminate (the employment), to lay off, to clean out, to retire, to quit

Exercise 4:
1. be installed, were refused
2. was not shortlisted, complained
3. was refused, was dismissed, grew, refused
4. claimed, bullying
5. wore, was not allowed, required
6. won, failed, had achieved, were promoted
7. was dismissed, have her baby induced, died

Exercise 5:

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