

**LABOUR LAW
MODEL EXAM
2010**



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IRAC method of completing exams

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

Question One

A company, CA Pty Ltd (“CA”), is a manufacturer and distributor of herbs and spices to retail supermarkets. These products are displayed on racks in such supermarkets but CA retains ownership of the products.

Ricky, a “rack jobber”, is responsible for servicing these racks in the supermarkets. He has entered into a written contract (“licence agreement”) with CA which includes the following clauses:

“7 RELATIONSHIP OF THE PARTIES

The Licensee is and shall remain an independent contractor responsible for the operation of the rack jobbing method in accordance with this Agreement and the Licensee shall have no authority express or implied to act as agent of the Licensor nor shall the Licensee be regarded as partner, employee, servant or as having any other relationship with the Licensor other than that of an independent contractor.

8 MANNER OF OPERATION

Except as expressly provided in this Agreement the Licensee shall have a complete and unfettered discretion as to the manner in and the times at which his responsibilities in operating the rack jobbing method are discharged...”

The contract also contains a provision concerning remuneration whereby the rack jobbers receive payments by way of commission based on amounts which CA receives in respect of sales that result from orders which the rack jobber has placed (cl 4). Other clauses of note include:

- (i) the Agreement permits assignment and subcontracting (cl 5);

the Agreement requires the rack jobber to effect and to maintain public liability insurance cover (c 15).....

Question two

Jamie has been teaching personal education and health at St George Boys Grammar for a period of seventeen years whereby he currently earns \$68,560 per annum. This school has recently become incorporated under the *Corporations Act 2001* (Cth) and it is to be assumed that it is a constitutional corporation.

Jamie has established a reputation amongst the boys as being a very strict teacher who carries out unorthodox disciplinary measures on his sports students. One day, Jamie decides to discipline Ben who is distracting the class. Jamie tells two of the bigger boys in the class, Michael and Justin to perform a spear tackle on Ben which involves lifting Ben above the horizontal and driving him head-first into the ground. During this disciplinary measure, Ben sustains serious neck injuries and his father, Wayne, who is the School Chair and a significant benefactor to the school, complains to the school.....

SAMPLE ONLY

Question three

Roger is a first-year law graduate who has recently obtained a graduate position at Jones Clayton. He entered into a contract of employment in February 2009 which contained a clause to the effect that the amount of hours to be performed per week depends on the completion of tasks (cl 4).

During March, Roger worked on average, 70 hours per week. As a consequence, Roger lost contact with his friends and had little time to play his favourite sport, tennis. He became increasingly sad and requested a lighter workload from the partners in his practice area of mergers and acquisitions. The partners held a meeting in April with Roger to discuss his situation but felt that due to pressures in maintaining profits they could not lessen Roger's workload.

In May, Coleworths, a retail chain, contracted Jones Clayton to handle a takeover of Grace Myer. This culminated in Roger working close to 90 hours per week until the completion of the matter which took one month.....

SAMPLE ONLY

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**If you have any queries regarding the labour law model exam please
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