

# English for Lawyers 3


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# Company law



Revision


# Company law

1. Summarize the characteristics of the types of business organisation:
    - sole trader
    - partnership
    - limited liability partnership
    - private limited company
    - public limited company
  2. How can businesses raise capital?
  3. What is a takeover bid?
  4. What is a dividend?
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# Legal Regulation of Employment



# Employment

- ▶ full-time work
  - ▶ part-time work
  - ▶ occasional work
  
  - ▶ permanent contract
  - ▶ fixed-term contract
  
  - ▶ dependent labour (working for an employer)
  - ▶ independent labour (being **self-employed**)
- 


# Legal regulation of employment

- ▶ employment relationship:
  - employer
  - employee
- ▶ an imbalance of bargaining power
- ▶ employee
  - the 'weaker' party
  - needs more legal protection

# Legal regulation of employment

- ▶ legal protection of employees (a hierarchy):
  - international documents (e.g. UN Charter)
  - the Constitution
  - employment-related laws (HR: Zakon o radu, Zakon o suzbijanju diskriminacije; UK: Employment Act, Employment Relations Act, Equality Act)
  - collective agreements
  - employment contract

# Employment contract

- ▶ regulates the relationship, rights and obligations of an employee and the employer
  - ▶ **collective agreements** – result of negotiations between trade unions and the state or an employer
  - ▶ may impose terms to be adhered to in individual employment contracts
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# Employment contract

- ▶ Some typical employee rights:
  - minimum wage
  - equal pay for like work
  - non-discrimination
  - right to paid sick and parental leave (sick and parental pay)
  - right to be represented by a trade union
  - a cap on working hours
  - holiday entitlement
  - notice period
  - pension scheme

# Termination of employment

- ▶ expiration of a fixed-term contract
- ▶ by mutual agreement
- ▶ redundancy
- ▶ by frustration
- ▶ by death of employer
- ▶ by dissolution of employer
- ▶ due to dissatisfaction, underperformance or misconduct
  
- ▶ termination by employer: **DISMISSAL**
- ▶ termination by employee: **RESIGNATION**

# Termination of employment

## ▶ DISMISSAL

- **regular dismissal**
- **redundancy** (to be made redundant)
  - surplus of workers
  - may be subject to redundancy pay (*otpremnina*)
- **summary dismissal**
  - in the event of **gross misconduct**
  - notice period not observed

# Employment Dispute Resolution

- ▶ Disputes mainly arise from a **breach of employment contract**
  - misconduct
  - underperformance
  - discrimination, etc.
- ▶ Provide examples to explain the above causes of disputes!

# Employment Dispute Resolution

- ▶ informal methods of dispute resolution
  - employee and employer discuss the issue(s)
- ▶ formal methods of dispute resolution
  - internal procedures
  - external procedures

# Employment Dispute Resolution

- ▶ formal methods of dispute resolution
  - internal
    - **grievance** (filed by the employee with a designated body/officer for handling employee grievances)
    - **disciplinary procedure** (initiated by the employer against the employee following underperformance or misconduct)
  - external
    - **filing a claim** (lawsuit) in a court of law

# Filing an employment claim

- ▶ common grounds for a claim
  - **discrimination**
  - **unfair or wrongful dismissal**
    - dismissal for unlawful reasons (e.g. discrimination)
    - failure to observe procedure (e.g. no notice period, failure to provide redundancy pay)
  - **constructive dismissal**
    - lawsuit available following a **resignation**
    - used in cases when employee was forced to resign due to a breach of contract by the employer

# Filing an employment claim

- ▶ most common remedies in employment claims
  - **compensation (damages)**
  - **reinstatement**
    - returning the employee to the same position
  - **re-engagement**
    - finding alternative employment with the same employer




# Exercises

- ▶ Do exercises 190/III, IV, V and VI

# Discrimination in the Workplace



# Discrimination

- ▶ AIM – to provide equal opportunities to everyone
  - ▶ DISCRIMINATION – treating someone less favourably on the basis of a protected characteristic
  - ▶ Can less/more favourable treatment be justified?
- 


# Discrimination (HR)

- ▶ prohibited grounds for discrimination (*Zakon o suzbijanju diskriminacije NN 85/08, 112/12*)
  - race, ethnicity, skin colour, sex, language, religion, political or other belief, national or social origin, economic status, trade union membership, education, social or marital status, age, health status, disability, genetic heritage, gender identity, expression thereof or sexual orientation

# Non-discrimination in English law

- ▶ it is illegal to discriminate on the basis of a **protected characteristic**:
  - age
  - disability
  - marriage and civil partnership
  - race or ethnicity
  - religion or belief
  - sex
  - sexual orientation
  - gender reassignment

# Types of discrimination

- ▶ direct discrimination
  - ▶ indirect discrimination
  - ▶ perceptive discrimination
  - ▶ associative discrimination
  - ▶ victimisation
  - ▶ harassment
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# Types of discrimination

## DIRECT DISCRIMINATION

- ▶ occurs when someone is treated less favourably than another person because of a protected characteristic

## INDIRECT DISCRIMINATION


- ▶ can occur when a condition, rule, policy or even a practice in an organisation applying to everyone puts people who share a protected characteristic at a particular disadvantage

# Types of discrimination

## ASSOCIATIVE DISCRIMINATION

- ▶ direct discrimination against someone because they associate with another person who possesses a protected characteristic

## PERCEPTIVE DISCRIMINATION

- ▶ direct discrimination against an individual because he or she is thought to possess a particular protected characteristic, but does not in fact possess it
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# Types of discrimination

## HARASSMENT


- ▶ unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual

## VICTIMISATION

- ▶ suffering harassment or other forms of bad treatment as a consequence of filing a grievance or a lawsuit against the employer

# Exercises

Do exercise III on p. 194 in the coursebook  
(EFLP)  
(types of discrimination)



**Thank you for your attention!**

