

Université PANTHÉON - ASSAS (PARIS II) MELUN

Droit - Economie - Sciences Sociales

Session :	Juin 2017
Année d'étude :	Troisième année de Licence Droit
Discipline :	<i>Anglais juridique</i>
Examen :	Second semestre (UEC2 7396)
Durée :	1h30
Titulaires du cours :	Ms. Cingal, Ms. Fatovich, Mr. Jendoubi, Ms. Lévy

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. While the QBD of...
2. Small claims...
3. Whereas the County Court...
4. Following the HRA 1998...
5. Under the Human Fertilisation & Embryology Act 2008...

II. Read the following document and answer each of the questions below. (approximately ten lines/100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)

Obesity discrimination: UK disability laws incompatible with EU directive

By **Rob Moss** on 25 Apr 2016 in **Case law, Disability discrimination, Discrimination, Employment law, Europe, Obesity**

<http://www.personneltoday.com/hr/obesity-discrimination-uk-disability-laws-incompatible-eu-directive/>

UK laws preventing discrimination against people based on their size should be reformed, according to analysis of obesity discrimination made by an employment tribunal judge. (...) Currently, people who can show that their weight “creates a substantial functional deficit” can seek redress through UK disability discrimination legislation.

However in EU law, explain the authors, the direction of travel is away from this medical model towards a “social model” of disability.

“Crucially, the social model includes attitudinal barriers... the effects of which must be tackled by anti-discrimination law,” say Rostant and co-author Tamara Hervey, professor of EU Law at the University of Sheffield.

The social model of disability suggests that disability is the result of the way society is organised, rather than the outcome of a person’s impairment.

Assuming the UK remains in the EU, the authors believe UK law will have to change because EU law follows the United Nations Convention on the Rights of Persons with Disabilities, which adheres to the social model.

“It seems to us that the UK cannot avoid at least a version of the social model for much longer”, say the authors. The EU Directive (2000/78/EC) that established a framework for equal treatment in employment must be read as requiring member states to define disability not only through a medical model, but also through a social model, they add.

“To that extent, the Equality Act 2010 stands in conflict with the Directive,” say the authors. “However, the difficulties for courts and tribunals in finding an appropriate route for the introduction of the Directive into the national legislative framework and the consequences for the litigation of cases should they do so are such that, in our view, compliance with EU law cannot be achieved without further legislation.”

Last year, a UK employment tribunal became the first to consider obesity as a disability following a ruling by the European Court of Justice in the case of Karsten Kaltoft, a Danish childminder who claimed he was sacked for being too fat.

The Northern Ireland Industrial Tribunal in *Bickerstaff v Butcher* unanimously decided that the claimant was disabled and upheld his claim of harassment, following the ECJ ruling that said that if obesity hinders “full and effective participation” at work, it could count as a disability.

In 2005, a Personnel Today survey of more than 2,000 HR professionals revealed that 93% of respondents would choose a “normal weight” applicant over an obese applicant with the same experience and qualifications.

The survey also showed that 30% of HR professionals believed obesity is a valid medical reason for not employing a person, while 15% agreed that they would be less likely to promote an obese employee.

- a) What is the issue at stake?
- b) How is there a conflict of law?
- c) What are the recent court cases dealing with the issue?

III. Choose ONE of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1. Describe the elements of the criminal offence of murder and its possible defenses.
2. Compare and contrast civil union and marriage in terms of legal protection, rights and duties.