

Occupational Health and Safety Legislation

**Elective
Past
Papers**

LL.B. III



GHAQDA STUDENTI TAL-LIĠI

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2020/2021

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ABOUT GħSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GħSL Online Law Journal*.

Moreover, GħSL boasts its own Thesis Library, located at the GħSL office in the Faculty of Laws. Additionally, GħSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at resources@ghsl.org.



Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

3. Organisational Skills

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

4. Taking your own class notes

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

5. Participation

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

6. Practice is the key to success

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.

University of Malta

Faculty of Laws

LL.B. III Year

Occupational Health & Safety Legislation – PBL 3004
(Study Unit Co-ordinator and Lecturer :
Mr. Justice Joseph Zammit McKeon LL.D.)

"True or False" Test

May/June Examination Session 2009

Duration of Test : One Hour

FRIDAY 12th June 2009

8.00am - 9.00am

In this examination paper :-

The term "Factories Ordinance" is short for "the Factories Ordinance 1940"

The term "Authority" is short for "the Occupational Health and Safety Authority constituted in terms of Chapter 424 of the Laws of Malta"

The term "Chapter 424" is short for "the Occupational Health and Safety Authority Act - Chapter 424 of the Laws of Malta"

The term "Act VII of 1994" is short for "the Occupational Health and Safety (Promotion) Act - Act VII of 1994"

The term "Officer" is short for "the Occupational Health and Safety Officers appointed by virtue of Chapter 424 of the Laws of Malta"

The term "Court" is short for "the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) sitting as Courts of Criminal Judicature"

The term "Commission" is short for "the Occupational Health and Safety Commission constituted by Act VII of 1994"

The term "L.N. 44 of 2002" is short for "the Work Place [Minimum Health and Safety Requirements] Regulations 2002"

NAME and Surname:

ID.No. :

The term "L.N. 91 of 2000" is short for "the Protection of Young Persons At Work Places Regulations 2000"

The term "L.N. 92 of 2000" is short for "the Protection of Maternity at Work Places Regulations 2000"

The term "L.N. 35 of 2003" is short for "the Protection against Risks of Back Injury at Work Places Regulations 2003"

The term "L.N. 36 of 2003" is short for "the General Provisions for Health and Safety at Work Places Regulations 2003"

The term "L.N. 281 of 2004" is short for "the Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations 2004"

Marking Procedure

Each correct answer has **TWO** marks

No marks will be given –

(a) where no answer is given

(b) where the answer is wrong

UNDERLINE the answer which is CORRECT

1. The members of the Advisory Board embodied in the Factories Ordinance were regularly appointed and their appointment constituted a milestone in the development of occupational health and safety legislation.

TRUE OR FALSE

2. In Act VII of 1994, it was the Commission who had to duty to see that the levels of occupational health and safety protection established by regulations made under the Act were maintained.

TRUE OR FALSE

NAME and Surname:

ID.No.:

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3. In Act VII of 1994, the Commission had consultative, information and executive functions.

TRUE OR FALSE

4. Codes of Practice were introduced into Maltese occupational health and safety law through Act VII of 1994. In case of conflict between a Code of Practice and regulations, the Code of Practice prevailed.

TRUE OR FALSE

5. In terms of Act VII of 1994, only workers or employers could enter an appeal against orders given by an inspector in accordance with the procedure laid down in the Act. Third parties who deemed themselves aggrieved by such an order were excluded from such a remedy.

TRUE OR FALSE

6. In relation to work performed under a contract for services, "employer" for the purposes of Chapter 424 includes the owner on behalf of whom work is being carried out.

TRUE OR FALSE

7. The protection of occupational health and safety is not of public interest but rather is a matter that is subject to collective bargaining by the stakeholders namely the employer and the worker.

TRUE OR FALSE

8. The formulation of the general national policy relating to occupational health and safety is the responsibility of the Minister Responsible for Labour. The function of the Authority is to establish the strategy for the implementation of this general policy.

TRUE OR FALSE

9. The employer is only duty bound to ensure the health and safety of his workers when they are under his direct supervision and control.

TRUE OR FALSE

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ID.No.:

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10. A general principle of prevention is to give priority to collective rather than individual protective measures.

TRUE OR FALSE

11. The obligation to replace the hazardous with the non-hazardous or the less hazardous in order to reduce risk is not absolute in nature.

TRUE OR FALSE

12. Because some people provide them with services for free, voluntary organisations are not considered to be employers with regard to these persons for the purposes of Chapter 424.

TRUE OR FALSE

13. The Authority has the power to determine the minimum qualifications of persons who deem themselves competent to give advice of health and safety and who want to be registered with the Authority.

TRUE OR FALSE

14. The Authority is responsible for its affairs and business while the Chief Executive is responsible for its executive conduct.

TRUE OR FALSE

15. When prosecution for an offence is referred to Court, an Officer can disclose any information which he collects during his investigations without the need to obtain any prior permission.

TRUE OR FALSE

16. When an Officer gives a verbal warning in exercise of his functions according to law, he must within three days confirm that order in writing and serve the written order to the person concerned.

TRUE OR FALSE

NAME and Surname:

ID.No.:

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17. Offences under Chapter 424 have the same period of prescription as offences under the Criminal Code [Chapter 9 of the Laws of Malta].

TRUE OR FALSE

18. The employer has a general duty to make such appropriate arrangements for the effective planning, organisation, control, monitoring and review of preventive and protective measures, taking into account the nature of activities and the size of the undertaking.

TRUE OR FALSE

19. Though the employer has a duty to identify hazards at the place of work and a duty to avoid risks to occupational health and safety, he does not have a duty to adapt work to the individual.

TRUE OR FALSE

20. The duty to carry out a suitable, sufficient and systematic assessment of all workplace health and safety hazards is restricted to the employer and does not extend to the self-employed person.

TRUE OR FALSE

21. The purpose of the risk assessment is to consider the risks to the health and safety of workers but not that of visitors to the place of work.

TRUE OR FALSE

22. When a worker leaves a work situation where he reasonably believes that there is an imminent and serious danger to his health or safety, then the employer cannot take any action against that worker.

TRUE OR FALSE

23. Where several employers share a workplace, each employer has obligations only towards his workers but not towards workers of other employers, contractors or self-employed persons sharing that same workplace.

TRUE OR FALSE

NAME and Surname:

ID.No:

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24. When discharging his functions, the workers' health and safety representative must balance the financial state of affairs of the employer with the objective of safeguard the workers' health and safety.

TRUE OR FALSE

25. A worker is in breach of his duties if he does not inform the employer of any situation at work where he has reasonable grounds to consider that it represents a serious and immediate danger to safety and health.

TRUE OR FALSE

26. The employer is duty bound to provide adequate training on health and safety to each of his workers but not to the workers' representatives.

TRUE OF FALSE

27. The employer is not obliged to carry out health surveillance when the risk assessment reveals that a condition is only likely to occur under particular conditions of work.

TRUE OR FALSE

28. The term "so far as is reasonably practicable" which is now part and parcel of Maltese occupational health and safety law was first introduced into our law after the enactment of Chapter 424 and has its source in the EU Framework Directive.

TRUE OR FALSE

29. By "suitable system of maintenance" as defined in L.N. 44 of 2002, the law directs the employer to ensure that he carries out regular testing, maintenance and repair of equipment but such a duty does not include the keeping of records of such testing, maintenance and repair.

TRUE OR FALSE

NAME and Surname:

Id.No.:

6

30. An employer can use emergency exits for storage purposes, provided emergency routes should lead to areas outside the premises.

TRUE OR FALSE

31. Workers with a disability are entitled to equal rights and equal treatment just like other fellow workers. This principle finds exception in occupational health and safety law where the employer must organise the workplace in such a manner to take into account the requirements of disabled workers. If he fails, he is in breach of the law despite his observance of the principle of equality in other matters.

TRUE OR FALSE

32. In his arrangement of work stations, the employer is duty bound not only to ensure that work can be carried out in safety but also in comfort.

TRUE OR FALSE

33. Only after engaging or offering work to any young person, the employer has a duty to carry out an assessment of the occupational health and safety hazards present at the place of work.

TRUE OR FALSE

34. If a risk assessment reveals that the work an employer proposes to assign to a young person is beyond the young person's psychological capacity, the employer cannot assign that work to the young person concerned.

TRUE OR FALSE

35. After an employer engages a young person, he must refer the worker concerned to a medical practitioner for an examination who is to certify that the person is medically fit to carry out the work to be assigned to him.

TRUE OR FALSE

NAME and Surname:

ID.No:

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36. At his discretion, the medical practitioner may restrict the parents or guardians of the young person from being present to the medical examination.

TRUE OR FALSE

37. A young person may be allowed to perform work for a limited period of time with physical, chemical or biological agents if such work is indispensable for the young person's vocational training.

TRUE OR FALSE

38. To claim protection under L.N. 92 of 2000 because she is pregnant, it is sufficient for a female worker to inform her employer of her pregnancy without the need to produce a certificate issued by a medical practitioner.

TRUE OR FALSE

39. Before assigning work to any pregnant worker, the employer must assess the nature and degree of any hazard present at his workplace. Such a duty on the part of the employer does not extend to breastfeeding workers or to mothers.

TRUE OR FALSE

40. If the risk assessment reveals a health and safety risk to the pregnancy, then the employer cannot expose the female worker to such a risk. If the employer cannot move the worker to another suitable job, he must extend the maternity leave for the whole period necessary to protect her health and safety.

TRUE OR FALSE

41. If a breastfeeding worker provides the employer with a medical certificate which states that night work can have harmful effects on the child, then the employer cannot require that worker to perform night work.

TRUE OR FALSE

NAME and Surname:

ID.No:

8

42. L.N. 35 of 2003 directs its attention to risks of back injury to workers. However when defining the manual handling of a load with this scope in mind, the legal notice limits the protective provisions to cases where workers have to lift or carry a load but not where they have to push or pull a load.

TRUE OR FALSE

43. Where there exists a risk of injury through manual handling of loads, the employer must not only provide his workers with appropriate equipment, but must organise his system of work to avoid the actual need for manual handling.

TRUE OR FALSE

44. Where the manual handling of loads by workers cannot be avoided, the employer would comply with his duties at law if he follows what is stated in Schedule 1 of L.N. 35 of 2003.

TRUE OR FALSE

45. Health surveillance of a worker to whom work will be assigned that involves manual handling is not another statutory duty of the employer.

TRUE OR FALSE

46. By virtue of L.N. 281 of 2004, the client has a duty to appoint a project supervisor for the design stage and a project supervisor for the execution stage.

TRUE OR FALSE

47. The client can, without any reserve whatsoever, act as project supervisor for either stage.

TRUE OR FALSE

48. When a client disposes of his interest in a project, he must deliver to the person who acquires such an interest a copy of the health and safety file of the project. The client keeps the original health and safety file himself as he will still remain responsible for compliance with the regulations for the duration of the project.

TRUE OR FALSE

49. Even though he is not the author of the health and safety plan, the project supervisor at the execution stage has every right to adjust that plan to take account of any changes which have occurred as the project proceeds.

TRUE OR FALSE

50. When a client appoints a project supervisor for the execution stage, he is relieved from any responsibility with regard to the duties that the project supervisor concerned is bound at law to carry out.

TRUE OR FALSE

UNIVERSITY OF MALTA
FACULTY OF LAWS
MAY/JUNE 2010
LL.B. III

PBL3004 – OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

FRIDAY, 4TH JUNE 2010

8.00AM – 9.00AM

Answer ONE question.

1. Does the Occupational Health and Safety Authority Act Chapter 424 satisfy today's needs for the prevention of accidents at the workplace.
2. Analyze any legal notice in connection with Occupational Health and Safety legislation and put forward suggestions for improvement.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.B. III YEAR
PBL3004 – OCCUPATIONAL HEALTH AND SAFETY
LEGISLATION

FRIDAY 3RD JUNE, 2011

1.00PM – 2.00PM

Answer ONE question. Both questions carry equal marks.

1. Discuss the responsibility of the employer and the responsibility of the employee in the health and safety legislation sectors, and compare and contrast such responsibilities.
2. Discuss any two legal notices directly connected with Health and Safety Legislation and propose any improvements to such legal notices.

**UNIVERSITY OF MALTA
FACULTY OF LAWS
MAY/JUNE 2012
LL.B. III**

**ERL3004 – OCCUPATIONAL HEALTH AND SAFETY
LEGISLATION**

WEDNESDAY, 20TH JUNE 2012

9.15A.M. - 10.15A.M.

Each question carries equal marks. Choose one (1) question from the following:

- 1. Do you think that the present Health and Safety Legislation is enough to protect the Maltese worker?**
- 2. After having analysed the Health and Safety Legislation propose any new ideas.**
- 3. What advise would you give your client i.e an employer when employing a young worker and a pregnant worker**

UNIVERSITY OF MALTA
FACULTY OF LAW
LLB 3RD YEARS
MAY/JUNE 2013 EXAMINATIONS

ERL3004 - OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

FRIDAY, 21ST JUNE 2013

9.15AM – 10.15AM

Answer one (1) question. All questions carry equal marks.

1. Legal Notice 36 of 2003 deals with the general provisions for Health and Safety at Work Places. Do you consider that this legislation needs updating?

2. The Occupational Health and Safety Authority plays an important role in the protection of health and safety law in Malta. To what extent do you agree that the existing legislation for the protection of health and safety in Malta is enough?

3. Describe with the help of case law what are the obligations of the employer vis a vis the employee when it comes to health and safety at the place of work.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.B. 3RD YEAR
SEPTEMBER 2013 EXAMINATIONS

ERL3004 – OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

MONDAY, 2ND SEPTEMBER 2013

09.15AM – 10.15AM

ANSWER ONE (1) QUESTION. ALL QUESTIONS CARRY EQUAL MARKS.

- 1. The recent legislation in particular Chapter 424 Occupational Health and Safety Legislation Authority Act addresses today's needs in the Health and Safety sector?**
- 2. Discuss any two Legal Notices relating to the Health and safety sector and put forward suggestions for improvement.**
- 3. If you are a Union representative what advice would you give to the legislator to improve the overall legal structure of Health and Safety.**

UNIVERSITY OF MALTA

FACULTY OF LAWS

ERL 3005 – OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

JANUARY/FEBRUARY 2014 SESSION OF EXAMINATIONS

LL.B./LL.B. WITH L.P. OPTION

MONDAY, 3rd FEBRUARY 2014

9.15 a.m. – 10.15 a.m.

Answer ONE (1) Question only

All questions carry equal marks

1. Chapter 424 of the Laws of Malta lists a number of duties which have to be carried out by the Occupational Health and Safety Authority. Discuss these duties and explain to what extent do you consider them to be satisfactory.
2. Legal Notice 36/2003, the General Provisions for Health and Safety at Work Places Regulations 2003, obliges the employer to carry out a written risk assessment. Elaborate and discuss on these legal requirements whilst making reference to local jurisprudence.
3. List and discuss the powers of the OHS Officers contemplated in the Occupational Health and Safety Authority Act. Are they enough or can they be improved?

UNIVERSITY OF MALTA

FACULTY OF LAWS

ERL3005 – OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

JANUARY 2015 SESSION OF EXAMINATIONS

LL.B. (Hons.) III YR/ LL.B. III YR WITH L.P. OPTION

THURSDAY 22nd JANUARY 2015

9.15A.M. – 10.15A.M.

Answer ONE (1) Question only

All questions carry equal marks

1. Analyse the Occupational Health and Safety Authority Act (Chapter 424) and propose any improvements or amendmends
2. The onus of proof is on the accused. Analyse this in the light of the various legal notices relating to health and safety and how in effect does this take place in practice.
3. Distinguish between the criminal aspect of Health and Safety legislation and the civil aspect in the light of various cases.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LL.B. (Hons) 3rd Years

SEPTEMBER 2016 SUPPLEMENTARY SESSION OF EXAMINATIONS

EXAMINATION: ERL3005 – Occupational Health and Safety Legislation

DATE: Friday 2nd September 2016

READING TIME: 8.30AM to 8.35AM

DURATION OF EXAMINATION: 8.35AM to 9.35AM

INSTRUCTIONS TO STUDENTS:

EXAMPLE: Choose any **ONE** of the following questions:

Every question carries equal marks.

1. Describe the role of the inspectors with the Health and Safety Authority. Do you think this role has too many powers?
2. Analyse one legal notice in connection with Health and Safety Legislation. In your opinion is this protection enough?
3. Indicate in your opinion what sector of employment needs more protection. Discuss this in the light of a potential legal notice.