



## Foundation Certificate in Marketing - Stage 2

### REGULATORY ENVIRONMENT FOR MARKETING

**THURSDAY, MAY 18, 2006. TIME: 9.30 am - 12.30 pm**

Please attempt **FIVE** questions.

(If more than the specified number of questions are attempted, delete those you do not wish to have marked. Otherwise the Examiner will mark the **FIRST** five questions in your Answer Book).

All questions carry equal marks.

Do **NOT** repeat question in answer, but show clearly the number of the question attempted on the appropriate page of the Answer Book.

1.
  - (a) Detail the elements that must be present before a statement will constitute a misrepresentation. (12 marks)
  - (b) Discuss the remedies that may be available in the context of an actionable misrepresentation. (8 marks)
2. Deirdre offered to sell her car to Michael for €5,000 on Monday. Michael replied 'I will buy it if I can raise the money'. Deirdre promised that she would not sell to anyone else before Saturday, and added that Michael could collect the car at any time before noon on Saturday. On Thursday, Deirdre was visited by John who said that he would pay €6,000 for the car. Deirdre accepted this offer and sold the car to John. On Saturday, Michael arrived at 10 am, with the €5,000, to take collection of the car. He has informed Deirdre of his intention to sue her for breach of a contract for the sale of the car.  
Advise Deirdre as to her legal position.
3. With respect to the contractual relationship of a principal and an agent, explain each of the following:
  - (a) The rights of an agent and
  - (b) The duties of a principal.

**P.T.O.**

4. (a) **List only** the terms implied in each of the following types of contract as a result of the Sale of Goods and Supply of Services Act 1980:
- (i) A sale of goods contract and (3 marks)
  - (ii) A supply of services contract. (3 marks)
- (b) Compare and contrast the exclusion of these implied terms in such contracts where the buyer deals as a consumer. (14 marks)
5. (a) In the context of the Competition Act 2002, critically compare and assess the provisions of Section 4 (Anti-competitive behaviour) and Section 5 (Abuse of a dominant position) (12 marks)
- (b) By the use of two illustrative examples with which you are familiar, demonstrate the operation of the enforcement role of the Competition Authority. (8 marks)
6. With reference to the following forms of intellectual property, i.e. patents, trade marks and copyright:
- (a) Define the form of intellectual property involved and
  - (b) Detail the requirements that must be met to achieve the statutory protection available to that particular form of intellectual property.
7. Handipack Ltd. is a company, which has recently been established in Ireland. It specialises in the manufacture and sale of 'Do it Yourself' goods for the home. Consider its possible liability in both negligence and the Liability for Defective Products Act 1991, in the following alternative circumstances. In each case it can be assumed that Handipack Ltd. has exercised all reasonable care:
- (a) The company has manufactured and supplied a wood preserving fluid, which causes cancer in a number of users. It is accepted that this side effect was utterly unpredictable in the context of the state of scientific knowledge at the time of both the manufacture and supply of the product.
  - (b) The company bought in a supply of workbenches from a manufacturer abroad. It has sold them through its network of retail outlets, labelled 'Produced by Handipack'. One such workbench collapsed and injured its user, Tom.
8. Discuss the extent to which the legislative provisions of the European Union, i.e. Regulations, Directives and Decisions are a source of Irish law. In answering this question it is necessary to explain the extent to which such legislative measures are incorporated into Irish law.