



Foundation Certificate in Marketing - Stage 2

REGULATORY ENVIRONMENT FOR MARKETING

WEDNESDAY, MAY 20, 2009. 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 the question in answer, but show clearly the number of the question attempted on the appropriate page of the Answer Book.

You should refer to legal authority (case law, statutes, regulations and/or European Union law etc.) where relevant to support your answers.

1. Explain with the use of examples the following key areas of the legal framework in Ireland. You should consider how the various forms of law interact, and in the event of conflict, which law takes precedence.
 - (a) Legislation including statutory law
 - (b) Case law
 - (c) Constitutional law
 - (d) European Union law(20 marks)
2. You have been asked to prepare a written outline for your manager on the area of civil liability in the tort of negligence in Ireland as the company has recently been taken over by a Spanish corporation.

Explain, using relevant examples and case law, the following aspects:

- (a) The definition of negligence and the elements a plaintiff must prove in a negligence claim. (10 marks)
- (b) The vicarious liability of an employer. (5 marks)
- (c) Possible remedies for the tort of negligence. (5 marks)

P.T.O.

3. Rory has devised a new form of bracket to attach solar panels to all types of roof. They are particularly strong and flexible and suitable for exposed sites. He is based in Ireland and wants to market these fixings as *Elemental Brackets*. He has not considered any intellectual property aspects of his new design or the naming of his product.

Briefly outline the advantages and availability of relevant intellectual property protection in this situation. (14 marks)

Explain to Rory the advantages and disadvantages of setting up a company as a business vehicle to manufacture and market his new product. (6 marks)

4. You are the Marketing President of an American company, *Nojob2small Inc.* You are launching in Ireland using Dublin as a base. The company specialise in quoting for jobs and in providing qualified tradespersons to complete small jobs such as basic plumbing, electrical and carpentry work in the home and office environment.

You have researched the law to ensure full compliance. Write a short report to the board of Directors to explain:

- (a) The requirements of the Sale of Goods and Supply of Services Act 1980 and the nature of the implied terms protecting a buyer when purchasing services and goods from the company. (10 marks)
AND
 - (b) Legal issues which arise if the Company includes an exclusion clause in all its standard terms of business which attempts to limit its liability (whatever the nature of the liability) to €5,000. (5 marks)
AND
 - (c) The types of remedy a **consumer** has in Ireland to pursue a claim for defective work and/or materials supplied. (5 marks)
5. (a) G Ltd. is a company which markets recycled wood products for use in heating systems. It is based in Kildare. It is considering establishing an agency in the west of Ireland and wishes to appoint Harry as an agent.
- Outline the nature of an agency relationship and explain the principal terms that should be included in a typical agency agreement. (12 marks)

- (b) You are the Managing Director of G Ltd. Assume the agency agreement with Harry is completed and operates well for the first six months. However, three weeks ago you are contacted by Irate Ltd. who inform you that Harry promised to deliver them 15 tonnes of wood pellets and they had paid Harry a 25% deposit as requested. The pellets have not arrived and Irate Ltd. tell you they have just discovered that Harry was an agent for G Ltd. Explain the position of G Ltd. (8 marks)
6. PH Ltd. manufactures and holds the intellectual property rights to a heart product, “Anti-atak”. The main competitor of PH Ltd., which manufactures a similar product, has just gone into liquidation and PH Ltd. are hoping to acquire these assets including any intellectual property rights. The Sales Director seeks your advice as to whether the following proposals could contravene Irish and/or European Union competition law.
- (a) PH embarks on a three month price cutting campaign in order to force its other competitors from the market. (7 marks)
- (b) PH enters into an unwritten understanding with its minor competitors that the price of these types of products should be sustained at similar levels and that each company should have preference to supply a certain area i.e. they agree to divide the market between them. (8 marks)
- (c) Outline any consequences for the company if they breach competition law. (5 marks)
7. *“Until the adoption of the unfair commercial practices Directive, each Member State had its own, distinct laws on unfair commercial practices, leading to discrepancies between countries. The Directive brings harmonisation and mutual recognition between states, bringing down internal market barriers”.*
(Health and Consumer Protection Directorate General).

Explain how the Directive and its implementation in Ireland in the Consumer Protection Act 2007 sets down a framework for advertising and marketing practices for goods and services and the protection of the European consumer. Give appropriate examples where relevant.

(20 marks)

P.T.O.

8. Write an explanation of **two** of the following, using examples to illustrate your explanation where relevant:
- (a) The law relating to consumer guarantees.
 - (b) The protection given to consumers by the Unfair Terms in Consumer Contracts Regulations 1995.
 - (c) The main protection given to consumers under the Consumer Credit Act 1995.
 - (d) The court system in Ireland.

(20 marks)