

Qualifications Framework written examination

Unit 3: Trading Standards Law 1

May 2024

Guidance for this examination

Please ensure that you indicate clearly at the top of the answer booklet, the law viewpoint from which you will be answering: English, Scottish or Welsh.

The examiners may expect candidates to show knowledge of legislation which is in place but not in force (i.e. has been enacted) and regulations which have been made but are not yet in force, if they are directly relevant to the subject-matter of the examination.

Examination structure

There are two sections to the examination paper:

Section A Consists of six questions.
Candidates should attempt to answer three questions.
Total allocation of marks is 30 marks.
Suggested time allocation is 30 minutes.

Section B Consists of four questions.
Candidates should attempt to answer two questions.
Total allocation of marks is 70 marks.
Suggested time allocation is 90 minutes.

Total time allowed – two hours (plus ten minutes' reading time).

Note:

The Trading Standards Law 1 paper is a **closed book**; no materials are permitted to be taken into the examination room.

The examination paper has (7) pages, including this front sheet.

Section A

Candidates should attempt to answer three questions.

Each question carries ten marks.

Total: 30 marks.

1. Answer both parts:

The Consumer Protection from Unfair Trading Regulations refer to the concept of a “transactional decision”.

(a) In your own words, explain what this term means and its relevance when considering offences.

(6 marks)

(b) Give two examples of actions that would be “transactional decisions” referring to case law.

(4 marks)

(Total: 10 marks)

2. English and Welsh candidates only.

Answer both parts of the question:

(a) Explain the purpose of the Police and Criminal Evidence Act 1984 and its relevance for trading standards officers.

(6 marks)

(b) What are the potential consequences if an officer does not adhere to the provisions?

(4 marks)

(Total: 10 marks)

2. Scottish candidates only.

Answer both parts of the question:

(a) Explain the purpose of the Criminal Justice (Scotland) Act 2016 and its relevance for trading standards officers.

(6 marks)

(b) What are the potential consequences if an officer does not adhere to the provisions?

(4 marks)

(Total: 10 marks)

3. The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 apply to digital content. Providing two examples, explain the meaning of digital content. What specific information requirements apply to digital content and how do the cancellation rights apply?

(10 marks)

Section A continues over the page.

4. English and Welsh candidates only.

Answer all parts of the question.

- (a) What is meant by the term “unused material” in the Criminal Procedures and Investigations Act 1996? Give three examples of materials produced or gathered during the course of an investigation that would fall within this term. (6 marks)
- (b) In what circumstances would you need to disclose this to the defence? (2 marks)
- (c) “Sensitive material” will not be disclosed to the defence, give two examples of material which would be considered sensitive. (2 marks)
- (Total: 10 marks)

4. Scottish candidates only.

Answer all parts of the question:

- (a) What is meant by the term “relevant information” in the Criminal Justice and Licensing (Scotland) Act 2010? Give three examples of material produced or gathered during the course of an investigation that would fall within this term. (6 marks)
- (b) In what circumstances would you need to disclose this to the defence? (2 marks)
- (c) “Sensitive material” will not be disclosed to the defence. Give two examples of material that would be considered sensitive. (2 marks)
- (Total: 10 marks)

5. Answer both parts:

You are investigating complaints that older people are being cold called over the telephone and offered a range of health supplements and vitamins. They are then, unknowingly, being signed up to a subscription and are then called repeatedly to sell them further products.

The invoice gives a return address in your area, which is known to be a fulfilment company. With reference to the Consumer Rights Act 2015, the Enterprise Act 2002 and the Data Protection Act 2018 and the General Data Protection Regulation 2016:

- (a) Explain what information you could request from the fulfilment company. (5 marks)
- (b) Who could you share this information with and in what circumstances? (5 marks)
- (Total:10 marks)

Section A continues over the page.

6. Answer both parts:

An important part of trading standards' role involves the control of age-restricted products.

(a) List five products that are age restricted.

(5 marks)

(b) Briefly outline what precautions a business could take to ensure they do not commit offences in relation to supplying products in breach of the age restrictions.

(5 marks)

(Total: 10 marks)

Section A total of 30 marks.

End of Section A.

Section B

Candidates should attempt to answer two questions.

Each question carries 35 marks.

Total: 70 marks.

7. George and Mildred have complained about a recent property purchase. The couple are in their 70's and were looking to downsize and re-locate nearer to their daughter, 200 miles away, as Mildred has been diagnosed with dementia.

George says they've had a stressful property search. There had been issues with a previous property which had not worked out, after having spent a significant amount on surveys and travelling to viewings.

Property one was being sold by the "owner", not through an agent. The couple's daughter had seen a social media advert, describing the property as a "beautifully renovated home". When arranging viewings, the seller made numerous excuses and cancellations, sending photographs and videos instead. The photos looked perfect, so when the seller contacted George claiming they had had an offer, George decided to pay £1,000 deposit, then another £700 on a survey which revealed significant structural issues. It has since transpired that the owner is a landlord.

Property two, which the couple ultimately purchased, was a new build bungalow sold by a developer. They had seen the property listed online but it said, "price on application". It was on a small complex of retirement homes which were still under construction. George contacted the developer and was given a price range and sent a brochure. He then viewed the show home, which he was told would be identical to the home supplied. The brochure claimed:

- Fully accessible.
- Equipped with smart technology.
- 24hr on-site care team.
- Range of social activities.

When they moved into the property, Mildred had recently had a fall and was in a wheelchair. The doors were not wide enough for the wheelchair to fit through. There was no smart technology installed and they were told this could be upgraded at an additional cost. There was no on-site care team in place. The developer said that this would not be available for another six months, and the social activities consisted of a monthly coffee morning. The developer referred to the Information Pack provided and said that all this information was in the terms and conditions which George had agreed to. George had lost all the documentation during the move.

Apply the provisions of the Consumer Protection from Unfair Trading Regulations 2008 and outline any offences that have been committed, explaining why, in relation to:

- (a) Property one (10 marks)
- (b) Property two (10 marks)
- (c) Identify the evidence you will need to obtain in order to prove the offences in relation to both properties, and what powers you will need to exercise to obtain it. (15 marks)
- (Total: 35 marks)

Section B continues over the page.

8. Your authority is planning a project looking at sales of used cars in your area; you are the lead officer. Intelligence gathering, including a review of complaints, has already taken place and you have a list of 20 target premises. The intelligence suggests misdescriptions, mileage discrepancies, unroadworthy vehicles and undeclared Cat C write-offs, high pressure tactics, additional charges being applied and failure to respond to and rectify complaints after sales.

The project will be carried out in two phases:

Phase 1 – Undercover visits

Officers to identify vehicles advertised online, then contact garages posing as consumers to view/test drive. Visits will be carried out in pairs with one officer wearing a hidden camera to record statements made by the salesperson.

Phase 2 – Inspections

Multi-agency inspections of premises where issues were identified in Phase 1 will be carried out with officers from TS, your local police and the Driver and Vehicle Standards Agency.

- (a) Draft a briefing for Phase 1 for TS officers undertaking the covert viewings. This should include an overview of the requirements for capturing vehicle listing details, the powers and authorisation process for the covert visits and questions to ask the salesperson during the viewings to establish offences.

(15 marks)

- (b) Draft a briefing for Phase 2 for all agencies involved in the inspections. This should include a summary of the relevant potential offences under the Consumer Protection from Unfair Trading Regulations 2008, an explanation of the powers in the Consumer Rights Act 2015 that you will use, the evidence you aim to collect and the procedure for gathering this.

(20 marks)

(Total: 35 marks)

9. You receive an email from Dieter, a website developer who has heard that there may be some laws that his e-commerce clients need to be aware of, like having terms and conditions and consumers' cancellation rights. He has numerous clients who would benefit from some information regarding this and would like to make sure he is building legally compliant websites for them. He tells you his clients sell a range of items from clothing, homewares, food and drink, and e-learning courses, mostly to consumers but some also sell to businesses. He also asks if there is any other legislation that is relevant to them.

Prepare a response to Dieter explaining the requirements of the Consumer Contracts (Cancellation, Information and Additional Charges) Regulations 2013 for distance contracts generally and specific requirements for websites. Include basic information about other relevant fair trading legislation that applies to his clients. (Do not include food legislation.)

(35 Marks)

Section B continues over the page.

10. Answer all parts:

Maria has complained about a handyman she employed. She tells you that a man called 'Mike' came to her door last week with a leaflet and asked whether she needed any work doing in her house. Maria is a single mum who had recently lost her husband after an illness and had some jobs that needed doing including some shelving to put up, a broken tap and some tiling in the bathroom. Maria knew nothing about DIY so agreed for Mike to come in and have a look.

The leaflet said, "Marvellous Mike - fully qualified and insured master tradesman, 30 years' experience, qualified electrician, plumber and expert in all other DIY jobs. Association of Master Tradesmen. 01234 456789."

Mike quoted £300 for all the work and said it would take one day. They agreed for Mike to come back in a couple of days. Mike asked for £50 up front for materials which Maria paid by bank transfer. No paperwork was provided to Maria.

After not hearing from Mike for a few days Maria eventually spoke to him and arranged a date, but Mike rearranged this twice.

Ten days after the initial visit, Mike arrived and put the shelf up, but then said he had to go but would be back in the morning. He arrived in the afternoon, replaced the tap and removed some loose tiles from the bathroom, then left saying he had a family emergency. Returning the next morning, he then told Maria it would be more expensive as all of the tiles had to be removed and re-done as the wall was damp. He asked Maria to transfer £600, saying he was struggling to pay his rent and his landlord was threatening to kick him out. Maria felt sorry for him and paid.

Maria has not seen Mike again; his phone was switched off. She still had no tiles in her bathroom, and the new tap is leaking.

You find numerous similar complaints about Mike. One consumer provided Mike's full name and said he has no qualifications. Further intelligence from a neighbouring authority states Mike had signed an undertaking in relation to similar issues, but in the business name "Mikes Handyman Services Ltd".

- (a) Apply the provisions of the Consumer Protection from Unfair Trading Regulations 2008 and the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 to this scenario and identify offences that have been committed. (20 marks)
- (b) Outline what evidence you will need to gather and any powers you will need to use to obtain it. (10 marks)
- (c) Explain the situation with the previous undertaking; has Mike breached this? Outline the process you would take to pursue civil enforcement. (5 marks)
- (Total: 35 marks)

END OF EXAMINATION PAPER.