

## Examiner's report

### Qualifications Framework

#### Stage 1: Unit 1 Regulatory Environment and Enforcement

#### Written Examiner's Report May 2024

##### **General**

Congratulations to all candidates who undertook the examination. Twenty candidates sat the Unit 1 examination paper during the May cycle and 80% of candidates successfully passed. Well done to all of you for the hard work you have put in.

Candidates who obtained lower marks or failed to achieve the pass mark lacked sufficient detail in their answers or failed to focus on the question set. There was also some evidence of a lack of understanding of some of the key concepts in contract law and the Consumer Rights Act 2015 in the answers given, which was concerning as these are key areas on the syllabus.

Some candidates wrote longer answers for the shorter form questions in Part A than they did for Part B, where 35 marks were on offer in comparison to the 10 marks available for Part A questions. Having a clear plan for the examination and allocating time based on the marks available, would improve the chances of candidates obtaining higher marks and providing sufficient detail in their answers.

The marks awarded for this paper ranged from 31% to 83%, with some impressive answers provided by some candidates.

##### **Section A**

###### Q1

This question was answered by 12 candidates and the marks awarded ranged from 0 – 8.

This question related to the incorporation of terms into a contract. Some candidates focused on discussing whether terms are express or implied, which is not what the question was asking. Candidates who scored well on this question identified that if terms are not incorporated into a contract, they are not legally binding and cannot be relied upon for part (a). The question then asked for the different ways that terms can be implied into a contract, such as by signature, reasonable notice, custom, consistent course of dealings etc. Candidates who achieved good marks also provided examples of relevant case law to support each example in part (b).

###### Q2

This was a very popular question with 17 candidates choosing to answer it. Marks awarded ranged between 4 and 10, with most candidates scoring very well.

(a) This part of the question required candidates to outline the doctrine of precedent, which was done well by most candidates. Most candidates discussed the binding nature of the doctrine, the hierarchical structure of the court system in the doctrine, the principle of stare decisis and that it is the ratio decidendi of the case that is binding.

(b) Candidates who clearly identified three different advantages and three disadvantages of the doctrine obtained full marks for this part of the question. Candidates need to be careful not to repeat themselves, as marks will only be awarded for each different advantage or disadvantage provided and not for the same point written a slightly different way.

Q3

6 candidates chose to answer this question, with marks ranging from 3 – 8.

This question was answered well by most candidates. The question required a brief explanation of the purpose of the Regulators' Code or the Scottish Regulators' Strategic Code of Practice and an outline of the principles set out within the Codes. Candidates who had revised this part of the syllabus clearly demonstrated their knowledge and achieved high marks for their answers.

Q4

5 candidates elected to answer this question with marks awarded between 3 and 5.

This question required candidates to identify that minors are under the age of 18 and discuss the relevant case law or legislation, such as the Age of Legal Capacity (Scotland) Act 1991. The question then requires a discussion about circumstances where contracts are valid, invalid or voidable/set aside. This could include discussing contracts for necessities or services for the minor's benefit for example, voidable contracts for land and leases and other types of contracts which would be void. Candidates needed to answer all parts of the question to achieve high marks. Many candidates did not do so, which limited the marks that they were awarded for their answers.

Q5

This question was selected by 10 candidates. Marks ranged from 1 to 9.

It was concerning that some candidates who selected this question scored very poorly. The Consumer Rights Act 2015 is an important part of the syllabus for Unit 1 and students should ensure that they are familiar with this legislation. This question focused on goods fit for a particular purpose as made known to the trader and asked candidates to use practical examples relevant to the DIY store. Some candidates did not answer the question set and instead started to discuss satisfactory quality or other parts of the Consumer Rights Act 2015, which were not relevant to the question. The requirements set out in Section 10 of the Consumer Rights Act 2015 and relevant examples were provided by candidates who achieved high marks for their answers.

Q6

This question was answered by 9 candidates. Marks ranged from 6 – 10 and there were some excellent answers to this question.

(a) Civil law remedies could have included damages, injunctions, rescission, specific performance etc. and an explanation of what each example involves.

(b) Criminal law remedies could have included fines, imprisonment, suspended sentence, community sentence, conditional discharge etc. and an explanation of what each example involves.

## Section B

Q7

11 candidates selected to answer this question and their marks ranged between 17 - 31 out of the 35 marks available.

This question focussed on Alternative Dispute Resolution and was answered well by the candidates who selected to answer it. Part (a) of the question asked candidates to describe what ADR is and to identify the different types of ADR available. Most candidates were able to provide different examples, such as mediation, conciliation,

arbitration etc. and to explain the differences between them. Some candidates struggled with this part of the question.

All candidates scored well in part (b) of this question, which asked candidates to identify the advantages and disadvantages of ADR for consumers. There were five marks available for advantages and five marks available for relevant disadvantages.

For part (c) of the question, candidates were asked to discuss their thoughts on whether requiring ADR providers to be approved and accredited would address concerns about the time ADR takes, that it could have a bias towards the business and poor customer service. The question asked for examples to be provided. Some candidates provided strong answers to this question, with a good, balanced discussion and clear examples, clearly discussing all aspects of the question. Some candidates didn't fully answer the question set, which limited the marks they were able to achieve.

#### Q8

This question was answered by 7 candidates and the marks ranged from 5 – 29 out of 35.

One candidate demonstrated very little knowledge about digital content in their answer and discussed parts of the Consumer Rights Act 2015 that were mostly outside the scope of this question. There was some overlap in the answer given but it is important that candidates read the question carefully during their reading time and select questions that enable them to demonstrate areas of knowledge across the syllabus. Some answers were strong and clearly demonstrated a good level of knowledge and understanding, which was really pleasing to see. Most candidates also ensured that the answer was in the format of a business guidance document. The strongest answers methodically answered each part of the question and clearly outlined the rights and remedies available to consumers, including clear examples of how the rights would apply and what remedies would be available in their chosen examples. Having a knowledge of not just reciting the legislation but also applying it, is an important part of a candidate's knowledge for Unit 1 and some good examples were provided. Finally, strong answers also correctly discussed the position with free content and then went on to discuss when content would be caught and would not be considered to be free.

#### Q9

This was a popular question with 13 candidates choosing this question. The marks awarded ranged between 6 – 26 marks.

Part (a) of this question required a discussion of the law relating to invitations to treat and offers and how this applies to Leah and Kate's interaction, supported by relevant case law such as *Fisher v Bell* [1961]. Candidates were also required to consider the law of mistake/error in Scotland and how this could relate to the error Leah made when writing the price.

Part (b) required a discussion of the formation of a contract and whether there was an invitation to treat, or an offer involved in the interaction between Leah and Hamdi. Strong answers discussed whether the offer to sell the shirt to Hamdi had to be kept open or whether it could be withdrawn, and whether any consideration had been given. Had Hamdi given some consideration for Leah holding the shirt for him until he could attend the premises, such as by paying a holding deposit, the legal situation may have been different. One candidate addressed this aspect of the question very well and provided an excellent answer.

Part (c) required candidates to demonstrate their knowledge of the blacklisted terms that restrict consumer rights and the requirements relating to delivery under the Consumer Rights Act 2015. Candidates who clearly set out the requirements for blacklisted terms and the consequences for including those terms within a contract, as well as the delivery and refund requirements under the Act, achieved high marks in this part of the question.

## Q10

This question was answered by 8 candidates and marks awarded ranged from 12 – 30.

Part (a) of this question required candidates to draw the structure of the civil and criminal court systems. Some candidates did a very good job of this and achieved high marks in this part of the question. Other candidates could only identify some of the courts and there were gaps in their knowledge. Knowledge of the court systems is an important part of the working knowledge for Unit 1 and is a common question on the Unit 1 examination paper.

Part (b) required candidates to identify some of the key terminology used in the court process. This part of the question was largely answered well where candidates adopted a logical and methodical approach to answering all parts of the question. Some parts of the question were left unanswered or were missed out from some candidates' answers, lowering the marks they were able to achieve. Having a knowledge of common terminology used in our civil and criminal enforcement work is important for delegates to develop during their Unit 1 studies.

Finally, part (c) of the question explored the differences between private and public law and asked candidates to provide examples. Strong answers discussed public law as being the relationship between individuals and the state or institutions and private law as being relationships between individuals. Examples of public law included tort and land law. Examples of private law included taxation law, constitutional law or administrative law.