

CTSI Professional Competency Framework (CPCF) written examination

Unit 1: Regulatory Environment and Enforcement

May 2022

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 Regulatory Environment and Enforcement paper is a **closed book**; no materials are permitted to be taken into the examination room.

The examination paper has (5) pages, including this front sheet.

Section A

Candidates should attempt to answer three questions.

Each question carries ten marks.

Total: 30 marks.

1. One element of a contract is the intention of the parties to create legal relations with each other. Explain the presumptions that the courts are likely to make when contracts are made in the following settings, using case law to support your answers:
 - (a) Contracts entered into in a business context. (5 marks)
 - (b) Contracts entered into in a social or domestic context. (5 marks)
(total: 10 marks)
2. Describe what precedence means and outline two advantages and two disadvantages of this doctrine. (10 marks)
3. Answer both parts:
 - (a) Explain what defences are available to a defendant of a claim made against them under Part 1 of the Consumer Protection Act 1987. (6 marks)
 - (b) What are the relevant time limits for making such a claim? (4 marks)
(total: 10 marks)
4. What factors should be considered under the Consumer Rights Act when determining whether goods are of a satisfactory quality? (10 marks)
5. Explain what contract terms cannot be assessed for fairness under Part 2 of the Consumer Rights Act 2015 – often referred to in guidance as the core exemption – and identify when this exemption does and does not apply. (10 marks)
6. Using case law, explain what privity of contract means and briefly outline the circumstances where a third party may be able to enforce a contract. (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. Charlotte placed an order for the latest games console via the website of a business called Gamerz. Their website stated that delivery usually takes 24 hours. Three days later, the console had still not arrived. Charlotte emailed Gamerz to complain and asked them to deliver the console the next day. Gamerz responded to her email stating that they would not be delivering the console as she had no contract with them. They quoted 1.3 of their terms and conditions which stated: "Your offer to purchase goods from us will not be accepted until we send you an email confirming dispatch of the goods." Charlotte checked on the website and couldn't see any terms and conditions, and she didn't remember agreeing to any. When she checked her email account, she had received an email from Gamerz, after placing her order, which confirmed that her order had been received. Attached to the email were a set of terms and conditions, which included 1.3 above. Charlotte had not noticed the terms and conditions before, and had not read them. No email confirming that the goods had been dispatched had been received.
- (a) Discuss whether Charlotte has a contract with Gamerz and whether the terms and conditions have been incorporated into the contract. Explain your reasoning, using case law to support your answer, where appropriate. (10 marks)
- (b) Explain what the Consumer Rights Act 2015 states about the delivery of goods in a sales contract, including the circumstances and action needed to be taken to bring a contract to an end. (15 marks)
- (c) When Charlotte finally gets a console, it comes with a game already pre-installed on it. Charlotte starts to play the game but, unfortunately, it is damaged and won't let her progress past the first level. Identify any rights she may have under the Consumer Rights Act 2015 and any remedies, including common law remedies, that may apply. (10 marks)
- (total 35 marks)
8. The Code for the Crown Prosecutors in England and Wales, and the Crown Office and Procurator Fiscal Service Prosecution Policy in Scotland, set out requirements for the evidential test/sufficiency of evidence and the public interest test.
- (a) What is meant by having sufficient evidence to proceed with a criminal case? (5 marks)
- (b) Provide five examples of factors that are taken into account when determining if it is in the public interest to progress with a case. (10 marks)
- (c) The Regulator's Code requires Regulators to ensure their approach to their regulatory activities is transparent, by requiring them to publish a set of clear service standards. Explain the requirements set out in the Code for complying with this principle. (20 marks)
- (total 35 marks)

Section B continues over the page.

9. Fittings R Us placed an advert in the local paper, in early January 2022 stating: “All our kitchens are supplied and fitted by installers with at least 10 years’ experience”. This was correct at the time that the advert was placed. The advert generated a lot of extra work for Fittings R Us, so they employed some new staff in February 2022, some of whom had considerably less experience.

Mr Williams saw the advert and, after deliberating for a while, called Fittings R Us in March 2022. He explained that it was important to him that the fitter was experienced, as he wanted the job to be as professional and of high quality as possible, because he had experienced poor workmanship in the past. Fittings R Us assured him that an experienced installer would fit the kitchen, as all of their installers had at least ten years’ experience, as stated in the advert. Feeling reassured by this, he agreed for a salesperson to visit him the next day and, after discussing his requirements and agreeing on the details, Mr Williams signed a contract for the supply and installation of a new kitchen. Before signing the contract, Mr Williams noticed a term stating: “All conditions, warranties and representations relating to the service provided by Fittings R Us are expressly excluded. This clause does not affect your statutory rights”. He did not understand what the term meant but decided to sign the contract anyway, as he wanted his new kitchen. It was agreed that the kitchen would be installed a month later.

When Mr Williams’ kitchen was fitted, in April 2022, one of the newly employed installers, Emily, carried out the work. Emily had only completed two previous kitchen installations. When installing the kitchen, Emily did not secure some of the units to the wall correctly. Two weeks after the installation, one of the cupboards fell off the wall, and both the cupboard and the items in it were damaged. Mr Williams came home to a terrible mess and was very upset.

When he called to complain to Fittings R Us, one of the customer services’ team apologised and explained that Emily was still new to the role, and he offered to send another fitter to the property to replace and reinstall the damaged unit. Mr Williams was very angry upon hearing that Emily was not an experienced fitter and has refused to allow Fittings R Us back to his property, because he feels that he cannot trust them. Mr Williams has now demanded a refund of the £10,000 paid for the kitchen and £300 for the cost of the damaged items in the cupboard. Fittings R Us want to rely on their terms and conditions and believe that they are not liable for any representations they have made about the experience of their installers. They have refused to provide a refund to Mr Williams, as they have offered to return to the property to put things right.

Fittings R Us have contacted Blankshire Trading Standards, where you work, to ask for advice. Draft an advice email to Fittings R Us, explaining how the law on misrepresentation and the Consumer Rights Act 2015 would apply to the above scenario – identifying any relevant remedies to which Mr Williams may be entitled and any effects on the contract caused by non-compliance.

(35 marks)

Section B continues over the page.

English, Welsh and Northern Ireland Candidates ONLY:

10. Answer all three parts:

- (a) William Gellart in 'An Introduction to English Law' states:

"The difference between civil law and criminal law turns on the difference between two different objects which law seeks to pursue - redress or punishment."

Outline the objectives and burdens of proof in civil and criminal law.

(20 marks)

- (b) In the County Court, cases can be allocated to the small claims track. Outline the maximum value of cases heard in this track and the main differences between the small claims track and the other tracks that cases can be allocated to.

(10 marks)

- (c) List 5 methods of enforcement that are available to claimants awarded a County Court judgement in their favour.

(5 marks)

(total: 35 marks)

Scottish Candidates ONLY:

10. Answer all three parts:

- (a) William Gellart in 'An Introduction to English Law' states:

"The difference between civil law and criminal law turns on the difference between two different objects which law seeks to pursue - redress or punishment."

Outline the objectives and burdens of proof in civil and criminal law.

(20 marks)

- (b) In the Sheriff Court, cases can be deemed Simple Procedure. Outline the maximum value of cases heard in this way and the main differences between the Simple Procedure and Summary Cause and Ordinary Cause.

(10 marks)

- (c) Explain the enforcement process that is available to a successful party in Simple Procedure.

(5 marks)

(total: 35 marks)

Section B total of 70 marks.

END OF EXAMINATION PAPER.