

Service Delivery Module:	<b>Advice Resolution and Redress</b>
Number of written papers:	1
Written Exam duration:	3 hours
Updated/ Reviewed:	March 2016

**NOTE:** The legislation outlined in this syllabus is not an exhaustive list. Candidates will be required to answer questions in accordance with this syllabus.

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 which are not yet in force if they are directly relevant to the subject-matter of the examination.

### **Aim:**

To provide candidates with knowledge and understanding of consumers rights with particular focus on the practical approach to securing redress.

The module will provide candidates with a working practical knowledge of the range of statutory and non-statutory organisations, legal and self-regulatory frameworks by which consumers can seek dispute resolution and/or redress.

### **Learning Outcomes:**

The competence for this module is the demonstration of knowledge and understanding of:

1. Key concepts of civil litigation; applying to business and consumer disputes
2. The range of mechanisms and their applications available to consumers as a means of securing redress;
3. Key principles of negotiation as they apply to consumer disputes;
4. The role of lay advocates / McKenzie friends in Small Claims / Sheriff Courts;
5. Relevant consumer legislation, enforceable by regulatory services – sufficient to enable the screening of a complaint for appropriate action.

### **Indicative Areas of Knowledge**

- The legislation, procedures and structures of organisations available for use by the parties in a consumer dispute to achieve appropriate redress;
- Alternative dispute resolution mechanisms;

- Taking and defending a small claim
- Government policy, guidance, reports, practice and papers relevant to this subject

The following terms have been used to indicate the level of knowledge required in each element;

**Detailed:** To an in-depth level, and with a fine degree of distinction between concepts

**Working:** With the ability to apply the learning to situations so as to resolve problems

**Basic:** Having an awareness of the organisations and concepts

Assessments will reflect the requisite level of knowledge in each given area of the syllabus.

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## Syllabus

### Legislation

#### General:

#### Alternatives to Court

#### Working knowledge of:

- Negotiation with particular reference to intervention in consumer disputes with a view to facilitating mutually acceptable resolutions
- Alternative Dispute Resolution – including European Directive on Consumer Alternative Dispute Resolution (Directive 2013/11/EU) and the European Regulation on Online Dispute Resolution (Regulation 524/2013)
- The basic functions of, and the consumer complaint resolution procedures of:
  - Trade Associations
  - The Regulators
  - Ombudsmen
  - Approved trader schemes
  - Other relevant organisations and schemes
- The role of ADR mechanisms generally in relation to consumer disputes
- Dispute resolution mechanisms in relation to cross-border disputes

### Court procedures

#### Detailed knowledge of:

- Recommended pre-action procedures in relation to small claims

- The small claims procedure and the relevant civil procedure rules.
- The rules relating to expert evidence
- The methods of enforcing judgements in the county court / Sheriff Court and when use of the various methods is appropriate

#### **Working knowledge of:**

- How to prepare a case for presentation at a small claims hearing
- The role of a MacKenzie friend at a small claims hearing
- Insolvency laws and the procedures for bankruptcy and liquidation with particular reference to the consumer as creditor
- The procedure for claiming compensation in the criminal courts

#### **Legislation:**

#### **Detailed knowledge of:**

- The law of Contract and Tort / delict of negligence
- Consumer Rights Act 2015

#### **Working knowledge of the civil provisions and the practical application of:**

- The Misrepresentation Act 1967 / Common Law Misrepresentation
- The Package Travel, Package Holidays and Package Tours Regulations 1992
- Consumer Protection Act 1987 Part I
- Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- Section 27 of the Hire Purchase Act 1964
- Part 8 of the Enterprise Act 2002 sufficient to identify potential cases
- Torts (Interference of Goods) Act 1977
- The Consumer Credit Act 1974 – civil provisions, in particular, form and content of agreement, cancellation rights, section 19, 56 and 75, protected goods and default notices, information sheets.

#### **Basic knowledge of:**

- Consumer Protection from Unfair Trading Regulations 2008 (Part 4A)
- Relevant consumer protection legislation enforced by regulatory services
- Policy and developments in the law and proposals for change

**NB Candidates should be aware that officer powers have been amended by The Consumer Rights Act 2015. Candidates will be expected to have a detailed knowledge of their enforcement powers as conferred by Schedule 5 of the Act by virtue of Section 78.**