

Service Delivery Module:	Fair Trading Civil
Number of written papers:	1
Written Exam duration:	3 hours
Updated/ Reviewed:	April 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:

The aim of this module is to provide candidates with a detailed knowledge of the civil enforcement mechanisms available to authorities to secure business compliance with legislation in accordance with the principles of good regulation.

The module will provide the candidate with knowledge and understanding of;

- The range of statutory provisions that exist in relation to the rights and obligations arising in contracts for the sale and supply of goods and services;
- The legal framework, provisions and requirements in relation to the civil mechanisms for securing business compliance;
- The practical application of the mechanisms available for securing business compliance

Learning Outcomes:

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

1. The effectiveness of civil enforcement actions
2. Key civil law enforcement concepts in depth, with particular application to consumer protection
3. The relationship between businesses, regulators and enforcers and the criminal and civil provisions of the relevant legislation
4. The required components for civil enforcement investigations, court action and associated documents

Indicative areas of knowledge

Contract law: formation, substance, performance, extension of obligations in relation to the supply of goods and services;

- Implied terms in contracts for the supply of goods and services
- Implied terms in contracts for the supply of digital content
- Misrepresentation at common law
- Misrepresentations Act 1967 (insofar as it relates to commercial contracts)
- The common law of tort (delict), insofar as this relates to negligence
- Strict liability for producers of defective products
- Civil procedure in relation to injunctive measures

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.

Syllabus

Legislation

A detailed knowledge of:

- Consumer Rights Act 2015
- Sale of Goods Act 1979, Supply of Goods (Implied Terms) Act 1973, Supply of Goods and Services Act 1982 (insofar as they relate to commercial contracts)
- Enterprise Act 2002, Part 8 & Part 9
- The Enterprise Act 2002 (Amendment) Regulations 2006
- The Consumer Protection from Unfair Trading Regulations 2008 (insofar as they relate to the above mentioned statutory and common law provisions)
- The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
- The Consumer Protection (Amendment) Regulations 2014 (insofar as they relate to the above mentioned statutory and common law provisions)

A working knowledge of:

- The Package Travel, Package Holidays and Package Tours Regulations 1992 – civil provisions
- Laws of contract and negligence
- Hire Purchase Act 1964
- Unfair Contract Terms Act 1977 (insofar as it relates to commercial contracts)

- Timeshare Act 1992
- The Regulatory Enforcement and Sanctions Act 2008
- The Regulators' Code
- The Provision of Services Regulations 2009
- The Legislative and Regulatory Reform Act 2006
- The Business Protection from Misleading Marketing Regulations 2008
- Companies Act 2006 (insofar as it relates to the above mentioned statutory and common law provisions)

General

A detailed knowledge of:

- Preparing for Enterprise Act 2002 Court Action including: schedule of complaints and infringements, identifying infringements, proportionate approach, interviewing, collecting and recording evidence, preparing documents, consultation, co-ordination, publicity
- Regulators' Code and the underpinning principals of good enforcement practice

A working knowledge of:

- The distinction between civil and criminal law
- Relevant rules relating to civil procedure and the rules relating to the law of evidence in relation to civil proceedings as they apply to civil enforcement actions under the Enterprise Act
- Civil procedure rules 1998 and the civil evidence act as they apply to civil enforcement actions
- The Primary Authority Principle
- Government policy, guidance, reports, practice, programmes and papers relevant to this subject area