

## Diploma in Consumer Affairs and Trading Standards

### FAIR TRADING CRIMINAL

NOVEMBER 2015

**Candidates answering the questions from the Scottish or Welsh law viewpoint: Please ensure that you write 'Scottish' or 'Welsh' on the front of your examination booklet.**

**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.**

There are three sections to the examination paper:

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|------------------|--|
| <i>Section A</i> | Consists of five questions.<br>Candidates should attempt to answer all questions.<br>Total allocation of marks is 25 marks.<br>Suggested time allocation is 45 minutes.  |
| <i>Section B</i> | Consists of two questions.<br>Candidates should attempt to answer one question.<br>Total allocation of marks is 25 marks.<br>Suggested time allocation is 45 minutes.    |
| <i>Section C</i> | Consists of three questions.<br>Candidates should attempt to answer two questions.<br>Total allocation of marks is 50 marks.<br>Suggested time allocation is 90 minutes. |

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

**The FAIR TRADING CRIMINAL paper is a closed book; no materials are permitted to be taken into the examination room.**

*The examination paper has **six** pages, including this front sheet.*

## Section A

Candidates should attempt to answer **all** questions -  
total of 25 marks.

1. Identify the products which fit within the definition of “holiday accommodation contract”, as covered by The Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010, and briefly explain the nature of each product.  
(5 marks)
  
2. Briefly explain the requirements of The Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015, as they relate to disclosure of business ownership on letters, websites and business premises.  
(5 marks)
  
3. Using case law, explain how the interpretation of 'Commercial Practice' has been clarified since the introduction of The Consumer Protection from Unfair Trading Regulations 2008.  
(5 marks)
  
4. Briefly explain what is meant by the term ‘approved hallmark’, as defined in Section 2 of the Hallmarking Act 1973.  
(5 marks)
  
5. Briefly explain the requirements of The Price Marking Order 2004 as they apply to small shops, identifying any exemptions which may apply.  
(5 marks)

**Section A total of 25 marks.**

**End of Section A.**

## Section B

Candidates should attempt to answer **one from two** questions - total of 25 marks.

6. *The Consumer Rights Act 2015 has simplified enforcement by consolidating officers' enforcement powers into one place.*

Critically evaluate the above statement as it applies to Fair Trading legislation, identifying the requirements of the new regime.

(25 marks)

7. *The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 have done little to improve the protection of consumers, and have made it more difficult for the small trader to comply with the law.*

Critically evaluate the above statement, highlighting the positive and negative aspects of the Regulations with regard to doorstep selling.

(25 marks)

**Section B total of 25 marks.**

**End of Section B.**

### Section C

Candidates should attempt to answer **two from three** questions - total of 50 marks.

8. You are a Trading Standards Officer employed by Blankshire Council. You are approached by Nick Kelly, the Branch Secretary of the local Motor Traders Association, asking you if you could run a training session for the Association members in the area.

He informs you that his members are aware of their obligations under civil law, but some are not aware of the laws covering descriptions and prices, and many of them have asked for some assistance in understanding the laws which apply to their businesses.

The members of the Association consist of dealers selling new and second-hand cars, and many of them also carry out servicing and repairs. As well as selling cars on the forecourts, vehicles are advertised in local newspapers and on websites. Some of the vehicles that they receive in part-exchange are sold on to other motor dealers, or via motor auctions.

Nick asks if you could go through the relevant legislation and provide guidance as to what his members can do to avoid committing any offences. He informs you that, as well as senior managers attending the session, there will also be sales staff, service managers and mechanics in attendance, and they want to know if they can be held personally liable for any offences committed.

Prepare an outline of the training session that you will give to the Motor Trade Association members and their staff, with regard to The Consumer Protection from Unfair Trading Regulations 2008 (excluding Part 4A), The Business Protection from Misleading Marketing Regulations 2008, and The Price Marking Order 2004. This outline should cover the areas identified by Nick Kelly, and you should highlight the important elements of the legislation. You should also give examples of good and bad trade practice to help the delegates comply with the law.

(25 marks)

**Section C is continued over the page.**

9. Enid Goodman is a 75-year-old pensioner. One evening, she receives a flyer pushed through her letterbox stating:

**SUPERKLENE**

“Your local cleaning company”. Roof and drive cleaning our speciality.

Ask about our amazing roof protector treatment – reduces your energy bills by up to 50%

Gold Member of the Thermal Paint Association

Call: 01234 123456

Local Authority Approved

The following evening, at around 9pm, a young man called Phil knocked on her door, asking her if she had received the leaflet that he had dropped in on the previous day.

Enid told Phil that she was not interested, as she was heading to bed, but he then asked her if she was interested in reducing her energy bills. When she said she was, he walked into the house, sat down and began a presentation explaining the merits of the “thermopaint” that they could apply to her roof to reduce her energy bills by 50%.

Enid kept asking him how much it would cost, but he didn’t get to the price until about an hour and a half later, when he told her that the job would cost £2,500. When Enid said she could not afford it, and asked him to leave, Phil said he would see if he could get her a discount. After a brief conversation on the phone, he said that he could reduce the cost to £1,500 if she signed the paperwork that evening. Enid was very tired and confused, and asked if she could have a day to think about it, but he said the discount was only applicable that evening. Enid, therefore, signed a contract agreeing to have the paint applied to her roof. The only details on the contract were the business name, the work to be done, her address and the cost.

Two days later, Phil and another person called Craig turned up at Enid’s house and started jet washing her roof, before painting on some grey paint. After a couple of hours they presented her with a bill for £1800. When she queried the cost, they said that the price was £1500 + VAT. Enid said that was more than they had agreed, and more than she wanted to pay, but Phil said he had told her the price was plus VAT when he was at her house. Confused and upset, Enid paid the bill by cheque.

Within three weeks, the paint on the roof was starting to flake off, so Enid’s daughter contacted Trading Standards.

You determine that the Thermal Paint Association doesn’t actually exist and, whilst Superklene had done some work for the local council once, a couple of years ago, the work was so bad that they had never been asked to do any more work. You also find the discarded paint tins in Enid’s greenhouse, and see that it is normal paint with no special properties.

Apply The Consumer Protection from Unfair Trading Regulations 2008 and The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 to this scenario.

(25 marks)

**Section C is continued over the page.**

10. You are a Trading Standards Officer employed by Blankshire Trading Standards Service. You are contacted by Simon Brown, who is the sole owner of a chain of corner stores, trading as Corner Shop Trading. Corner Shop Trading is based in your area but has stores all around the region.

Simon informs you that one of the stores in a neighbouring authority area had been visited by a Trading Standards Officer as the result of a complaint from a member of the public, whose 15-year-old son had been able to buy a certificate 18 DVD from the store. Apparently, the lady was also really annoyed that there was a big poster in the window stating that the latest Hollywood blockbuster was “In store now” but, when she went into ask about it, the manager had told her that they weren’t expecting to receive any stock until the following week.

The Trading Standards Officer had carried out an inspection in the store and identified a number of issues, in particular noting the fact that there were posters in the shop window comparing the Corner Shop Trading prices of tinned food with the prices in Shops-4-U shop, but the Shops-4-U prices were all out-of-date and, therefore, made the prices in Corner Shop Trading seem a better deal than they actually were.

The Officer left a trader’s notice with the manager, which has been emailed over to Mr Brown. The notice states as follows:

“Take notice that the following matters require attention:

- DVDs should not be supplied to underage purchasers.
- It was noted that some items in the shop weren’t priced and others had a price which said “+VAT”. This matter should be rectified.
- Prepacked items should be unit priced.
- It was noted that you were advertising a DVD which you did not have in stock. You should not advertise items until you actually have them in the store.
- Any price comparisons with other shops should be accurate and up-to-date.
- “No Refunds” notices should not be used.

There is no more information in the notice and Mr Brown asks you to explain what each of the elements means, identifying the relevant legislation, the potential offence, and what his stores need to do to comply with the law.

You agree to advise Mr Brown on the elements of the Video Recordings Act 1984, The Consumer Protection from Unfair Trading Regulations 2008, The Business Protection from Misleading Marketing Regulations 2008 and The Price Marking Order 2004 which apply to the officer’s visit.

Draft a letter to Mr Brown, identifying the issues and potential offences under the above legislation and advising him of the steps required to comply with the law.

(25 marks)

**Section C total of 50 marks.**

**END OF EXAMINATION PAPER.**