

GCSE

Law

Unit **B144**: Consumer Rights and Responsibilities

General Certificate of Secondary Education

Mark Scheme for June 2014

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.
















All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Meaning
	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
	Tick
	Cross
	Benefit of doubt
	Benefit of doubt not given
	Repeat
	Extendable vertical wavy line
	Omission mark
	Level 1
	Level 2
	Level 3
	Expansion of a point
	Development of point
	Vague
	Not answered question

Question		Answer	Mark	Guidance
1	(a)	<p>Candidates will identify up to <u>three</u> of the following:</p> <p>a) Express/Term in standard form contract b) Implied c) Warranty</p>	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct type of contract term identified</p> <p>Accept “Express Term”</p> <p>(maximum 3 marks)</p>
1	(b)	<p>Candidates will identify up to <u>three</u> of the following:</p> <p>(i) But for (ii) Objective (iii) Foreseeable</p>	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct item identified</p> <p>(maximum 3 marks)</p>
2	(a)	<p>Candidates will identify as follows:</p> <p>(i) Section 13 SGSA 1982/reasonable care and skill/fitness for purpose (ii) Section 14 (3) SGA 1979/correspond with description/fitness for purpose (iii) Section 14 (2) SGA 1979/satisfactory quality/fitness for purpose</p>	[3]	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark for each correct type identified</p> <p><u>Please Note:-</u> Section can be identified by correct sections or description. If section number and narrative contradict – no credit given</p> <p>(i) Must include the word <u>reasonable</u> with skill and/or care.</p> <p>(maximum 3 marks)</p>

Question			Answer	Mark	Guidance	
					Content	Levels of response
2	(b)	(i)	<p>Candidates will explain the following:</p> <ul style="list-style-type: none"> The implied term has been breached 	[3]	<p>ASSESSMENT OBJECTIVE 2</p> <p>Steve</p> <ul style="list-style-type: none"> Frank is a an experienced builder/Steve is clear in his instructions Cutting corners to increase profit/using insulation that is not fit for the job Steve could get Frank to do the work again, or get his money back and have the work done by someone else 	<p>For the scenario give credit as follows:</p> <p>Level 3 (3 marks) - for identifying a number of points with good reasoning</p> <p>Level 2 (2 marks) - for identifying 2 basic points or one basic point with adequate reasoning</p> <p>Level 1 (1 mark) - for identifying 1 basic point or limited reasoning</p> <p>(0 marks) – no response or no response worthy of credit</p> <p><u>Please Note:-</u> If appropriate remedy is not included candidate cannot reach Level 3 - maximum 2 marks.</p> <p>Description only of events i.e. repeating scenario only – no credit; must be in context</p> <p>(maximum 3 marks)</p>
2	(b)	(ii)	<p>Candidates will explain the following</p> <ul style="list-style-type: none"> The implied term has been breached 	[3]	<p>ASSESSMENT OBJECTIVE 2</p> <p>Gemma</p> <ul style="list-style-type: none"> The salesman has described the machine as very quiet which it is not Gemma has been precise about her requirement that the dishwasher should have a door of a certain size and the salesman has said the dishwasher will be fine for her 	<p>For the scenario give credit as follows:</p> <p>Level 3 (3 marks) - for identifying a number of points with good reasoning</p> <p>Level 2 (2 marks) - for identifying 2 basic points or one basic point with adequate reasoning</p> <p>Level 1 (1 mark) - for identifying 1 basic</p>

Question			Answer	Mark	Guidance	
					Content	Levels of response
					<p>purpose</p> <ul style="list-style-type: none"> Gemma could reject the dishwasher and get her money back 	<p>point or limited reasoning</p> <p>(0 marks) – no response or no response worthy of credit</p> <p>Please Note:- If appropriate remedy is not included candidate cannot reach Level 3 - maximum 2 marks.</p> <p>Description only of events i.e. repeating scenario only – no credit; must be in context</p> <p>(maximum 3 marks)</p>
2	(b)	(iii)	<p>Candidates will explain the following</p> <ul style="list-style-type: none"> The implied term has not been breached 	[3]	<p>ASSESSMENT OBJECTIVE 2</p> <p>Roger</p> <ul style="list-style-type: none"> The paint Roger buys is described as fit for all types of internal painting, including his bedroom When Roger uses the paint on his front door this is external painting and the paint is not designed for this purpose Roger will not have a remedy as he has not used the right paint for the job when the paint peels off the front door. 	<p>For the scenario give credit as follows:</p> <p>Level 3 (3 marks) - for identifying a number of points with good reasoning Level 2 (2 marks) - for identifying 2 basic points or one basic point with adequate reasoning Level 1 (1 mark) - for identifying 1 basic point or limited reasoning (0 marks) – no response or no response worthy of credit</p> <p>If candidate does not identify that there isn't a remedy they cannot reach Level 3 – max.2 marks</p> <p>(maximum 3 marks)</p>

Question			Answer	Mark	Guidance	
					Content	Levels of response
2	(c)	(i)	<p>Candidates will explain using an example the following:</p> <p>Example: a builder says he will build a wall in a week but takes a month to do the work.</p>	[3]	<p>ASSESSMENT OBJECTIVE 3</p> <p>Reasonable time eg.</p> <ul style="list-style-type: none"> If no time is mentioned the consumer should be able to expect it to be carried out in a reasonable time. If this does not happen they can possibly get someone else to finish the work/and charge the original service provider. 	<p>For the scenario give credit as follows:</p> <p>Level 3 (3 marks) - for a number of points or good reasoning</p> <p>Level 2 (2 marks) - for identifying 2 basic points or adequate reasoning</p> <p>Level 1 (1 mark) - for identifying 1 basic point or limited reasoning</p> <p>(0 marks) – no response or no response worthy of credit</p> <p><u>Please Note:-</u> If no suitable example used then candidate cannot reach Level 3 - maximum 2 marks.</p> <p>Reference to an outcome indicating protection of the consumer can be credited</p> <p>(maximum 3 marks)</p>
2	(c)	(ii)	<p>Candidates will explain using an example the following:</p> <p>Example: a dressmaker makes a size 10 wedding dress for a fixed price. Another customer wants the same dress in the same size but the dressmaker charges a higher price</p>	[3]	<p>ASSESSMENT OBJECTIVE 3</p> <p>Reasonable payment eg.</p> <ul style="list-style-type: none"> If no price is mentioned before the contract (then the consumer only has to pay a reasonable price). A business is more likely to state a price which protects consumers as they can shop around and not pay an extortionate price. This prevents the consumer from unscrupulous business practices 	<p>For the scenario give credit as follows:</p> <p>Level 3 (3 marks) - for a number of points or good reasoning</p> <p>Level 2 (2 marks) - for identifying 2 basic points or adequate reasoning</p> <p>Level 1 (1 mark) - for identifying 1 basic point or limited reasoning</p> <p>(0 marks) – no response or no response worthy of credit</p>

Question			Answer	Mark	Guidance	
					Content	Levels of response
						<p>Please Note:- If no suitable example used then candidate cannot reach Level 3 - maximum 2 marks.</p> <p>(maximum 3 marks)</p>

Question			Answer	Mark	Guidance
3	(a)		<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> ▪ quality ▪ foodstuffs ▪ ultimate 	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark each for each correct answer</p> <p>(maximum 3 marks)</p>
3	(b)		<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> ▪ Buildings ▪ Nuclear power ▪ Agricultural/land and produce which has not undergone an industrial process 	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark each for each correct answer</p> <p>Accept "agricultural products/foodstuff "or similar or foodstuffs etc which has not been through process. Do not accept food or similar on its own</p> <p>(maximum 3 marks)</p>
3	(c)		<p>Candidates will identify the following three producers:</p> <p>C (Manufacturer (including assembler of component parts and producer of raw materials used to make goods))</p> <p>D (Extractor of minerals)</p> <p>F (Person carrying out process which adds to the product)</p>	[3]	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark each for each correct answer</p> <p>Accept first three ticks if more have been given</p> <p>(maximum 3 marks)</p>

Question		Answer	Mark	Guidance	
				Content	Levels of response
3	(d)	<p>Candidates will explain the following:</p> <ul style="list-style-type: none"> ▪ The claim will be using the Consumer Protection Act 1987 or Negligence ▪ There cannot be a claim under either Consumer Protection Act or Negligence ▪ The claim will be using Negligence or the Consumer Protection Act 	<p>[3]</p> <p>[3]</p> <p>[3]</p>	<p>ASSESSMENT OBJECTIVE 2</p> <p>Kathy</p> <ul style="list-style-type: none"> ▪ Kathy will be able to claim using the Consumer Protection Act 1987 ▪ The blender is advertised as being suitable for the purpose for which Kathy bought it. ▪ She has suffered personal injury even though she read and followed the instructions when using the blender <p>Or</p> <ul style="list-style-type: none"> ▪ Kathy will be able to claim using the law of negligence ▪ Because she is owed a duty of care by the supplier, ▪ the duty has been breached by the supply of a faulty product causing foreseeable damage causing Kathy harm <p>Roberto</p> <ul style="list-style-type: none"> ▪ Roberto will not be able to make a claim ▪ Negligence will not apply because he not suffer damage, his employer did ▪ The Consumer Protection Act 1987 does not apply as the damage is to business property <p>Emily</p> <ul style="list-style-type: none"> ▪ will be able to make a claim in negligence ▪ Zak has a duty to the consumer to clean the yoghurt tanks and keep the correct temperature ▪ Zak has breached his duty as he has not cleaned the tanks or checked the temperature after the power cut so it is foreseeable that someone will suffer harm <p>Or</p> <ul style="list-style-type: none"> ▪ Emily will be able to claim using the Consumer Protection Act ▪ as the yogurt is a product and it is defective product as it has caused an injury. 	<p>For each of the scenario give credit as follows:</p> <p>Level 3 (3 marks) - for a number of points or good reasoning</p> <p>Level 2 (2 marks) - for identifying 2 basic points or adequate reasoning</p> <p>Level 1 (1 mark) - for identifying 1 basic point or limited reasoning</p> <p>(0 marks) – no response or no response worthy of credit</p> <p>Please Note:- NB. Breach of duty must be in the answer when negligence is discussed</p> <p>(maximum 3 marks for each)</p>

Question			Answer	Mark	Guidance	
					Content	Levels of response
					▪ She has suffered personal injury	

Question			Answer	Mark	Guidance
4	(a)		Candidates will identify/ tick as follows: B C E	[3]	ASSESSMENT OBJECTIVE 1 1 mark for each correct clause identified. Accept first three answers if more have been chosen. (maximum 3 marks)
4	(b)	(i)	Candidates will state: A term which creates a significant imbalance between the seller and the consumer.	[1]	ASSESSMENT OBJECTIVE 1 Only accept “seller cannot take advantage etc” if there is some development of the point 1 mark for correct answer
4	(b)	(ii)	Candidates will identify up to <u>two</u> of the following: <ul style="list-style-type: none"> • Hidden terms • Terms which give the seller more cancellation rights than the consumer • Terms which are hard to understand • Terms which make it hard for the consumer to end the contract. 	[2]	ASSESSMENT OBJECTIVE 1 1 mark for each example identified – in the context of the question. Examples <ul style="list-style-type: none"> ○ contract should be expressed in plain English ○ excluding liability for death or personal injury Accept first two answers if more have been chosen (maximum 2 marks)

Question		Answer	Mark	Guidance
4	(c)	<p>Candidates will select up to <u>three</u> of the following:</p> <p>UCTA will UCTA will not apply UCTA will apply</p>	[3]	<p>ASSESSMENT OBJECTIVE 3</p> <p>1 mark for each correct selection.</p> <p>If more than one box selected for same answer – no credit.</p> <p>(maximum 3 marks)</p>

Question		Answer	Marks	Guidance	
				Content	Levels of response
4	(d)*	<p>Candidates may include the following points:</p> <p>Courts:</p> <ul style="list-style-type: none"> • Person who is going to be subject to clause must know of its existence when the contract is made • Person inserting the clause must bring it to the attention of the other party • Where there is no chance for negotiation or communication consumers need to be protected • Where a person who is to be subject to the clause has asked about it and the seller has made a misrepresentation • Where there is ambiguity it works against the person who drafted it <p>Parliament (UCTA 1977):</p> <ul style="list-style-type: none"> • In a consumer contract there can be no exclusion of liability for death or personal injury 	[9]	<p>Credit should be given for both breadth and depth</p> <ul style="list-style-type: none"> • Using examples attracts some credit <p>Please Note :-</p> <ul style="list-style-type: none"> • the question asks “why the courts and parliament have developed controls ”. It does not ask for a description of controls. Any description given must be in context of the question 	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows:</p> <p>L3: 7-9 marks – points explained with good reasoning and with effective communication through discussion. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p>L2: 4-6 marks – points made with some elaboration and adequate communication. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p>L1: 1-3 marks – basic points made with basic communication. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p>

Question			Answer	Marks	Content	Guidance
						Levels of response
			<ul style="list-style-type: none"> In a consumer contract there can be no exclusion of liability by reference to the terms in a guarantee In a consumer contract here can be no exclusion of liability under the SGA 1977 or the SGSA 1982 In business contracts any exclusion clause must be reasonable <p>Why controls developed for consumers:</p> <ul style="list-style-type: none"> Without these controls they could be the victims of unscrupulous business practice They might have to accept shoddy and defective goods They might have to accept poor service They would have no guarantee that the business owned the goods and had a right to sell them They could be injured or killed and be unable to claim Consumers would be unable to enforce rights given in other statutes <p>Why controls developed for businesses:</p> <ul style="list-style-type: none"> They would be able to avoid any liability for negligence They would be able to avoid liability for breaching contract <p>Credit any other relevant response.</p> <p>Exemplar response:</p> <p>Eg. In a consumer contract there can be no exclusion of liability for injury to the consumer [1 mark]</p>			<p>0 marks – no response or no response worthy of credit</p> <p>If only one reason is discussed than maximum top L1.</p> <p>If a number of L1 points given – maximum top L1</p> <p>To get into L3 overall at least two of the reasons discussed must each be in L3.</p> <p>(maximum 9 marks)</p>

Question			Answer	Marks	Guidance	
					Content	Levels of response
			<p>If the consumer is injured by a defective product or service due to the negligence of the seller then the consumer will be able to get a remedy [2 marks]</p> <p>This ensures that sellers will have to provide safe products or services and cannot sell shoddy goods or services and all consumers are therefore protected [3 marks]</p>			

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