



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – EUROPEAN UNION LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's EU Treaties and Legislation 2019-2020, 30th edition, N. Foster, Oxford University Press, 2019.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

SECTION A
(Answer at least one question from this section)

1. Critically evaluate the contribution of the following to the achievement of the objectives of the EU in relation to competition policy:
 - (a) Block Exemption Regulations;
(14 marks)
 - (b) the leniency policy;
(5 marks)
 - (c) the Notice on Agreements of Minor Importance.
(6 marks)

(Total: 25 marks)

2. Critically assess the significance of cases decided under the preliminary reference procedure to the overall development of the EU.
(25 marks)

3. Critically assess the extent to which there is a democratic deficit within the institutions of the EU.
(25 marks)

4. Critically assess how effectively Art. 263 TFEU protects the legitimate interests of non-privileged applicants, with particular reference to the changes effected by the Lisbon Treaty.
(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Liam is a manufacturer of sun protection cream established in the Republic of Ireland. He has previously sold his range of products primarily in Western Europe but is now expanding to target holidaymakers in the Eastern Mediterranean and Black Sea regions. He seeks your advice on three problems that he has been experiencing.

- (a) Liam has recently developed a sun protection cream that is particularly aimed at children, and which has three compartments in its dispenser. These each contain cream that is identical in terms of its sun protection factor, but which is differently coloured, so that children can use it to create the same effect as face painting.

The authorities in Greece have advised Liam that this product will be classified by them as a toy or novelty, subject to VAT at the Greek standard rate of 20%. Ordinary sun protection cream is subject to the lower rate of 7%.

Advise Liam.

(8 marks)

- (b) (i) Liam produces a sun protection cream with an extremely high protection factor, which is particularly suitable for those with a range of skin conditions. When he started to advertise this product in Cyprus, he was informed that, under Cypriot law, such products are regarded as medicinal and may only be advertised inside pharmacies.

Advise Liam.

- (ii) Croatia has recently introduced regulations requiring all sun protection cream to be sold in reusable containers. This is part of a wider measure aimed at reducing single-use plastics. Liam has recently invested in a new production facility, which produces sun protection cream in containers that are so constructed that they cannot be reused. Liam has investigated alternatives, but these will involve him in considerable expense, in arranging for another company to package his sun protection cream in reusable containers for the Croatian market.

Advise Liam.

(17 marks)

(Total: 25 marks)

Turn over

Question 2

Emily currently lives in Dublin with her partner, Derek. They are not married but have been living together for about seven years. They are both Irish citizens.

Until very recently, they both worked as architects with the same firm, but Derek has now resigned. He had been finding the job increasingly stressful and is suffering from high blood pressure.

Kerry (aged 25) is Emily's daughter from a previous relationship. Kerry went through a rebellious phase a few years ago and was convicted of a series of drugs offences, including charges of possession of crack cocaine with intent to supply. She was sentenced to a substantial period of youth custody. However, she has recently become much more settled and is currently doing a biology degree at Dublin City University.

Emily is worried about Derek's health. She feels that they would both benefit from a change of scenery, and she is planning to get a job as an architect in Barcelona. Emily has many years of experience as an architect and has seen an advertisement for a suitable vacancy. Although Emily has not applied for the job yet, she is confident that, given her qualifications and experience, her application has a good chance of being successful. In any event, Emily has a friend who practises as an architect in Barcelona, and he has told her that he has spare space in his office where she could work on a self-employed basis.

Derek has decided that he does not want to go back to being an architect. He has always had a passion for cooking and would like to retrain as a professional chef. He has made some enquiries and there are a number of suitable professional cookery courses at colleges in Barcelona.

Kerry has asked Emily whether she can move to Barcelona to live with Emily and Derek, when she finishes her degree course. Kerry thinks that she might want to train as a nurse and has already identified a suitable course in Barcelona.

If possible, Emily would also like to take her Uncle Fred with her to Barcelona. Fred is a retired American citizen and he came over to Ireland to live near Emily and her family several years ago, when his wife died. Fred currently lives three miles from Emily and is very close to the whole family. Fred is unable to drive due to his poor eyesight. Emily sometimes helps him out with his housework and often buys his groceries for him.

Advise Emily of her rights and also of the rights of Derek, Kerry and Fred to carry out their plans, as outlined above.

(25 marks)

Question 3

Jan, a Dutch citizen, is expanding his chain of Indonesian restaurants into the Irish Republic. He has already opened two restaurants in Dublin, and they are proving to be very popular. Jan has further openings planned in Cork and Limerick.

The distinctive cooking style of these restaurants is the use of large, communal cooking pots containing hot stock. These are located on each table in the restaurant, and the customers cook their selected items themselves. This method of cooking has been very popular in the Netherlands since the days of the Dutch colonial empire.

The Irish Restaurants and Eating Houses (Hygiene) Act 1998 [fictitious] provides that 'all cooking apparatus other than spirit lamps and individual fondue dishes or bain-maries* shall be located in a kitchen area to which access is permitted only to persons employed for the purposes of the restaurant business'.

***NOTE: A bain-marie is a utensil for keeping food warm.**

The EU Eating Diversity Directive (2016/24) [fictitious] states in the preamble: 'WHEREAS it is appropriate that Member States shall encourage diversity of provision of public eating establishments, in particular those reflecting the culinary heritage of the Member States generally'.

Article 3 of the Directive provides: 'The method of food preparation and cooking characteristics of the culinary traditions of the Member States shall be respected and shall be permitted in all Member States provided appropriate food hygiene regulations for such method of food preparation are complied with'.

The Irish Republic has not transposed this Directive into national law.

Eunice, a restaurant customer, claims to have contracted food poisoning after eating at one of Jan's Dublin restaurants. She cannot prove negligence or breach of contract, and therefore intends to sue Jan for breach of his duties under the 1998 Act and to claim damages for her pain and suffering.

Walter, an environmental health officer employed by Dublin City Council, is threatening to prosecute Jan under the 1998 Act for using the communal stock pots. The offence is punishable by way of a potentially large fine.

Advise Jan in relation to these issues.

NOTE: You are not required to discuss negligence or breach of contract issues.

(25 marks)

Turn over

Question 4

EFCO Tubes plc ('EFCO'), a company which is registered in – and has its principal place of business in – England, produces copper tubes primarily for use in the air-conditioning and refrigeration industry. EFCO distributes these tubes to customers throughout the EU. It has a 70% share of the market for such copper tubes across the EU.

Approximately 60% of refrigeration plant and air-conditioning units use copper tubes; other options are titanium alloy tubes and stainless-steel tubes. Historically, these have been significantly more expensive than copper tubes and therefore used only in the highest specifications of plant units. Recently, changes in relative prices have increased the cost of copper tubes, and the market share enjoyed by copper tubes has fallen from 75% to 60% between 2017 and 2019.

ACR SA ('ACR'), a company based in Luxembourg, manufactures refrigeration plant and air-conditioning units. ACR has been one of EFCO's most regular customers over the past few years.

In July 2019, ACR desperately needed a supply of copper tubes to complete a contract with one of its principal customers. ACR tried to place an order with EFCO, even though EFCO was quoting a price that was higher than usual. However, on this occasion, it was told that EFCO could not supply ACR, as it no longer met the company's criteria for credit-worthiness. ACR could not find an alternative supplier of copper tubes and the specification of its contract precluded substituting titanium alloy or stainless-steel tubes. Consequently, ACR was unable to complete its contract on time and it has therefore suffered a financial penalty and the loss of the goodwill of the customer.

ACR suspects that the real reason for the refusal of the order is because EFCO's subsidiary in Belgium has recently started manufacturing refrigeration plant and air-conditioning units.

ACR has also recently discovered that EFCO has been offering discounts to some of its customers, if they agree to take all their requirements of tubing for refrigeration plant and air-conditioning units from EFCO.

Advise ACR whether the actions of EFCO are in accordance with EU law.

(25 marks)

End of Examination Paper

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