MA99 EDUCATION

Option: Consumers: Summary 03

NSW LEGAL STUDIES STAGE 6 SYLLABUS 2009 FOR HSC 2027

Every Act, case and figure is real and current as at October 2026; check for later changes before you quote it. Read it the week before a test, then again the night before the HSC.

1. Consumers on one page

CONTENT POINT	KEY POINT	EVIDENCE
Need for protection	Caveat emptor failed once goods were mass produced and sold on standard terms	Donoghue v Stevenson (1932); TPA 1974; ACL 2011
Definition of consumer	Price $100,000 or less, or ordinarily for personal, domestic or household use; not for resale	ACL s 3 (threshold from 1 July 2021)
Objectives	Information, quality, safety, fair dealing, redress, deterrence	Competition and Consumer Act 2010 (Cth) s 2
Contracts	Offer, acceptance, consideration, intention, capacity, genuine consent, legality	Carlill (1893); L'Estrange (1934); Thornton (1971); ACL s 64
Statutory standards	Consumer guarantees cannot be excluded; major failure lets the consumer choose	ACL ss 54 to 62, 259 to 271
Unjust contracts	Common law: special disadvantage. Statute: unconscionable conduct and unfair terms	Amadio (1983); ACL ss 20, 21, 23 to 28; Optus $100m (2025); CashnGo $3.5m (2026)
Negligence	Duty, breach, damage; manufacturers liable without a contract	Donoghue (1932); Grant (1936); ACL s 138
Marketing and advertising	Statute bans misleading conduct; industry codes add non-statutory control	ACL ss 18, 29, 33, 35, 48; Qantas $100m (2024); Coles (2026); Clorox $8.25m (2025); Ad Standards
Occupational licensing	Competence, insurance and discipline before trading	Home Building Act 1989 (NSW); Property and Stock Agents Act 2002 (NSW)
Awareness and self-help	The cheapest remedy, least used by the vulnerable	Fair Trading Complaints Register; Scamwatch
State organisations	NSW Fair Trading: complaints, mediation, directions, licensing, safety	Fair Trading Act 1987 (NSW); e-bike rules (2025 to 2026)
Federal organisations	ACCC, ASIC, National Anti-Scam Centre, OAIC	Penalties doubled to $100m (28 March 2026)
Industry organisations	Free binding ombudsmen; codes of practice	AFCA: 100,000+ complaints (2024-25); Food and Grocery Code (2025)
Tribunals and courts	NCAT for most disputes; courts for penalties and class actions	NCAT consumer claims to $100,000
NGOs and media	Voice and exposure, no enforcement	CHOICE; Financial Rights Legal Centre; Microsoft apology (2025)
Remedies	Individual: repair, replace, refund, compensation. Society: penalties, undertakings, recalls	ACL ss 224, 232 to 250; CCA s 87B
Credit	Licensing and responsible lending, now covering BNPL	NCCP Act 2009; Westpac (2020); BNPL from 10 June 2025; cash rate 4.60% (Sept 2026)
Product certification	Mandatory for known hazards; voluntary marks policed for honesty	Button batteries (2022); NSW e-bike certification; Clorox (2025); general safety provision (2026)

CONTENT POINT	KEY POINT	EVIDENCE
Marketing innovations	Dark patterns, drip pricing, subscriptions, illusory discounts	Microsoft (2025); Unfair Trading Practices Act 2026 from 1 July 2027; surcharges removed 1 Oct 2026
Technology	Scams, data, unsafe imports	$2.18bn scam losses (2025); SPF Act 2025; privacy tort (10 June 2025)

2. The evidence

Eight numbers worth memorising

$100 million: the maximum penalty per contravention for a company from 28 March 2026 (or 3 times the benefit, or 30 per cent of turnover). **$100,000:** the consumer threshold and NCAT's consumer claim limit. **$2.18 billion** in reported scam losses in 2025, up 7.8 per cent (National Anti-Scam Centre). **More than 100,000** AFCA complaints in 2024-25. **193** e-micromobility fires in NSW, 2022 to early 2025. **4.60 per cent:** the cash rate from 30 September 2026. **13 of 14:** Coles "Down Down" tickets found misleading. **2.7 million:** Microsoft 365 subscribers in the ACCC's case.

Seven reforms from 2024 to 2026

Credit: BNPL regulated as credit from 10 June 2025. **Scams:** Scams Prevention Framework legislated in 2025; sectors designated 28 May 2026. **Privacy:** statutory tort from 10 June 2025. **Groceries:** Food and Grocery Code mandatory from 1 April 2025; excessive pricing ban from 1 July 2026. **Penalties:** doubled from 28 March 2026. **Payments:** card surcharges removed from 1 October 2026. **Marketing:** Unfair Trading Practices Act passed 2 July 2026, in force 1 July 2027.

Cases by content area

Contracts: Carlill (1893); L'Estrange (1934); Thornton (1971); Toll v Alphapharm (2004). **Unjust contracts:** Amadio (1983); Thorne v Kennedy (2017); Optus (2025); CashnGo (2026). **Negligence:** Donoghue (1932); Grant (1936). **Advertising:** Qantas (2024); Clorox (2025); Coles (2026). **Credit:** ASIC v Westpac (2020). **Marketing innovations:** ACCC v Microsoft (filed 27 October 2025).

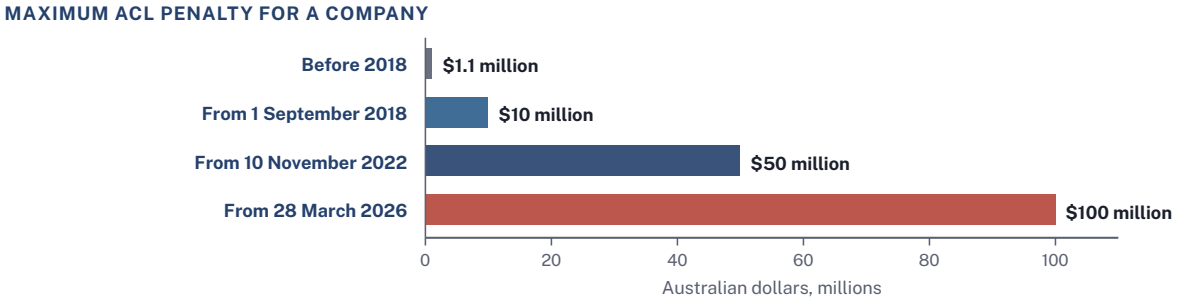


Figure 1 · The maximum penalty for a company breaching the ACL, per contravention (the fixed limb). Sources: Johnson Winter Slattery, 2026; Treasury Laws Amendment (Doubling Penalties for ACCC Enforcement) Act 2026 (Cth).

3. How to answer the question

Section III: the 25-mark response (about 1000 words, 45 minutes)

1. Choose the alternative whose evidence you know best, not the one that looks easier.
2. Underline the verb, the scope and any required issue. “To what extent” and “assess” need a judgement of degree.
3. Five minutes planning: judgement, two criteria, five or six paragraphs, each with an Act and section, a case or penalty, and a date.
4. Each paragraph: point, evidence, effect on justice for consumers, limitation.
5. Name at least one theme: compliance, changing values, law reform, effectiveness.
6. If the question names contemporary issues, give each a full paragraph.
7. Conclude by committing: for which consumers, and when, the law achieves justice.

A paragraph that earns marks

Point: “Credit law now reaches new products.” Evidence: “Buy now pay later became regulated credit on 10 June 2025, requiring an ASIC licence and responsible lending.” Effect: “Consumers using BNPL now have the same hardship rights and access to AFCA as other borrowers.” Limit: “But responsible lending depends on lenders’ assessments, which ASIC v Westpac (2020) showed courts will not second-guess closely.”

4. Common errors

COMMON ERROR	CORRECT STATEMENT
“Statutory warranties” as current law	Consumer guarantees under the ACL since 2011
“No refunds signs are allowed if displayed”	They misrepresent rights (s 29(1)(m)); guarantees cannot be excluded (s 64)
“A consumer is anyone who buys something”	ACL s 3: the $100,000 or ordinary use test; not for resale
“The ACCC fines companies”	Courts order penalties on the ACCC’s application; the ACCC can issue infringement notices
“The maximum penalty is $50 million”	$100 million from 28 March 2026
“Dark patterns are already illegal”	Only if misleading or unconscionable now; the general ban starts 1 July 2027
“NCAT can only hear small claims”	Consumer claims up to $100,000
“AFCA is a government agency”	An industry ombudsman scheme, compulsory for licensed financial firms
Listing laws with no judgement	Every paragraph ends with what the evidence proves about justice

5. Checklist

- ☐ Define consumer and apply the test to three purchases.
- ☐ Explain the guarantees and the remedies for a major failure.
- ☐ Distinguish Amadio from ACL s 21, with the Optus penalty.
- ☐ Evaluate advertising regulation with two cases from 2024 to 2026.
- ☐ Explain what Fair Trading, the ACCC, AFCA and NCAT each do.
- ☐ Evaluate responses to credit, product certification, marketing innovations and technology, one paragraph each.
- ☐ Plan a Section III answer in five minutes.

About this resource

MA99 EDUCATION

Scope

NSW Legal Studies, Year 12. Written to the NSW Legal Studies Stage 6 Syllabus 2009, the option Consumers, for students sitting the HSC in 2027. A new Legal Studies syllabus is first examined in HSC 2028. Written to the 2009 syllabus, examined for the last time in the 2027 HSC. Cases, legislation and reports are real and cited as at October 2026; check for later changes before relying on them.

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MA99 EDUCATION

Option: Consumers: Practice Questions

03

NSW LEGAL STUDIES STAGE 6 SYLLABUS 2009 FOR HSC 2027

1. Instructions

Three questions in the shape of Section III of the HSC, each worth 25 marks and each with two alternatives, (a) or (b). In the HSC you answer one alternative from the Consumers question, in about 45 minutes and about 1000 words. Here you have six alternatives across three questions: answer one alternative from each question, at different times, and mark each before you write the next.

How to run this

Choose an alternative in one minute. Write for about 45 minutes. Write each response in a separate writing booklet, because a Band 6 answer fills about eight pages. Mark yourself against the guidance at the back, then write one sentence naming the change that would have gained the most marks. Make that change in the next question.

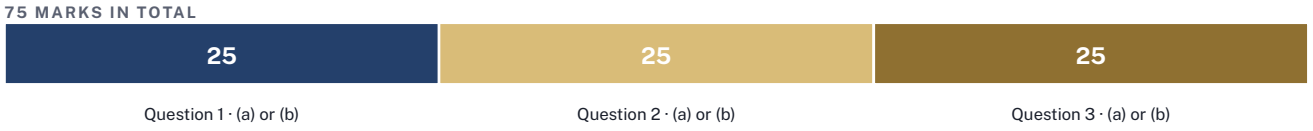


Figure 1 · How the 75 marks are split. Each question takes about 45 minutes.

The law and cases in this set

Every Act, case and statistic in the marking guidance is real and current as at October 2026. Equivalent real evidence earns the same marks. Every question is marked on the four things the HSC paper names: knowledge and understanding of the legal issues, relevant legal terms, relevant examples (legislation, cases, media, international instruments and documents), and a sustained, logical and cohesive response.

QUESTION	ALTERNATIVE (A) IS BUILT ON	ALTERNATIVE (B) IS BUILT ON
1	A theme: cooperation and conflict	Two contemporary issues: credit and marketing innovations
2	Redress: tribunals, courts and industry	A theme: law reform, with a contemporary issue
3	The nature of consumer law: contracts	Two contemporary issues: product certification and technology

BAND 6 Section III rewards a judgement sustained from the first sentence to the last, legal terms used exactly, and current evidence in every paragraph.

2. Section III · Extended responses

Answer ONE alternative from each question. Each question is worth 25 marks.

Question 1

25 MARKS

EITHER (a) Assess how effectively the law encourages cooperation and resolves disputes between consumers and businesses.

OR (b) To what extent are legal responses effective in protecting consumers in relation to credit and marketing innovations?

Write your response in a separate writing booklet.

Question 2

25 MARKS

EITHER (a) Evaluate the effectiveness of tribunals, courts and industry organisations in achieving justice for consumers.

OR (b) "Consumer law reform follows harm rather than preventing it." To what extent is this statement accurate? In your answer, refer to at least ONE contemporary issue.

Write your response in a separate writing booklet.

Question 3

25 MARKS

EITHER (a) Analyse the extent to which the law on contracts protects consumers.

OR (b) Assess how effectively legal and non-legal measures respond to product certification and technology.

Write your response in a separate writing booklet.

3. Marking guidance

Mark accurately. The purpose of a mark is to find the change worth making. Equivalent real evidence earns the same marks.

What a 25-mark answer has that a 15-mark answer does not

A judgement in the first sentence that answers the question's measure. Two criteria named and used to the end. Evidence in every paragraph, from 2024 to 2026 where possible, with sections, case names and dates. Both strengths and limits weighed in every paragraph, not listed in separate halves. Any named issue given a full paragraph. A conclusion that commits.

MA99 MARKING CRITERIA (ALL ALTERNATIVES)

MARKS	CRITERIA
21 to 25	Extensive understanding of the law concerning consumers. An informed, sustained judgement that answers the question directly. Integrates relevant, accurate examples: legislation, cases, regulators' actions, media. Where required, covers each named contemporary issue in depth. Sustained, logical and cohesive, with precise legal terms.
16 to 20	Thorough understanding. A clear judgement, supported by relevant examples, perhaps unevenly across the question's parts. Logical, with appropriate terms.
11 to 15	Sound understanding of relevant law. Some judgement, often general. Some examples.
6 to 10	Describes consumer law with limited reference to the question or to examples.
1 to 5	General statements about consumers.

QUESTION 1 (A): INDICATIVE CONTENT

Judgement: the law encourages cooperation well by setting clear shared rules and cheap dispute pathways, but resolves conflict less well for vulnerable consumers and against large firms that dispute liability.

- **Shared rules:** consumer guarantees (ACL ss 54 to 62) that cannot be excluded (s 64) tell both sides what is owed; cooling-off periods for unsolicited agreements (s 82).
- **Escalating pathways:** NSW Fair Trading mediation and consumer guarantee directions; NCAT claims up to $100,000; AFCA, more than 100,000 complaints in 2024-25, binding on members.
- **Codes:** the Food and Grocery Code, mandatory from 1 April 2025, with an excessive pricing prohibition from 1 July 2026; the Scams Prevention Framework codes (sectors designated 28 May 2026).
- **When cooperation fails:** ACCC litigation and penalties (Qantas $100 million, 2024; Optus $100 million, 2025; Coles, 2026), now up to $100 million per contravention (28 March 2026).
- **Limits:** relies on consumers knowing and asserting rights; delay (Coles conduct 2022 to 2023, judgment 2026).

QUESTION 1 (B): INDICATIVE CONTENT

Judgement: legal responses are increasingly effective for credit, where a licensing regime exists, and only beginning to be effective for marketing innovations, where the main reform starts in 2027.

- **Credit:** NCCP Act 2009 licensing and responsible lending; BNPL regulated from 10 June 2025; CashnGo $3.5 million and void terms (2026); ASIC v Westpac (2020) as a limit; hardship and AFCA; cash rate 4.60 per cent (September 2026).
- **Marketing innovations:** ss 18, 29, 48 used against pricing tactics (Qantas, Coles); Microsoft (filed 27 October 2025); Unfair Trading Practices Act passed 2 July 2026, from 1 July 2027; card surcharges removed from 1 October 2026.
- **Weighing:** penalties doubled in 2026 raise deterrence; enforcement depends on regulators choosing cases.

QUESTION 2 (A): INDICATIVE CONTENT

Judgement: tribunals and industry schemes deliver justice to the many with small claims; courts deliver it to the market through penalties; neither reaches consumers who never complain.

- **NCAT:** consumer claims up to $100,000, low fees, no lawyers needed; enforcement of orders needs a court.
- **Courts:** Federal Court penalties (Optus, Qantas), class actions, precedent (Coles' "was" price reasoning, 2026); slow and costly.

- **Industry organisations:** AFCA, TIO, EWON are free and binding on members; codes (Banking Code; Food and Grocery Code); Ad Standards for advertising, with no fines.
- **Limits:** awareness, language and confidence; vulnerable consumers in Optus.

QUESTION 2 (B): INDICATIVE CONTENT

Judgement: largely accurate for most of consumer law's history, but recent reforms show a shift towards prevention.

- **Harm first:** Donoghue (1932); button battery standards after children's deaths (2022); e-bike certification after 193 fires (2022 to early 2025); Scams Prevention Framework after the 2022 peak of $3.1 billion; privacy tort after the 2022 Optus and Medibank breaches; BNPL regulated after a decade of growth.
- **Prevention now:** unfair trading practices ban (from 2027) targets manipulation before detriment is proven; a general safety provision prioritised by ministers (July 2026); penalties doubled for deterrence (2026).
- **Weighing:** prevention needs enforcement capacity; offshore sellers and scammers.

QUESTION 3 (A): INDICATIVE CONTENT

Judgement: the law on contracts now protects consumers substantially, because statute has overridden the common law's assumption of equal bargaining power, but protection depends on enforcement.

- **Common law:** elements and terms; signature rule (L'Estrange, 1934; Toll v Alphapharm, 2004); notice (Thornton, 1971); unconscionable conduct (Amadio, 1983); undue influence (Thorne v Kennedy, 2017).
- **Statute:** consumer guarantees and s 64; unconscionable conduct (ss 20, 21: Optus, 2025); unfair terms unlawful from 9 November 2023 (CashnGo, 2026); Contracts Review Act 1980 (NSW); cooling-off (s 82); subscription rules from 2027.
- **Limits:** standard form contracts are still unread; consumers must know their rights; penalties after the event.

QUESTION 3 (B): INDICATIVE CONTENT

Judgement: responses are effective against known product hazards and improving for technology, but both rely on reacting to harm and struggle with online and offshore sellers.

- **Product certification:** ACL mandatory standards and recalls (Takata, 2018; button batteries, 2022); NSW e-micromobility standards, certification and labels (2025 to 2026, penalties up to $825,000); voluntary marks; Clorox greenwashing $8.25 million (2025); general safety provision (2026).
- **Technology:** scams $2.18 billion (2025); SPF Act 2025 and designations (May 2026); privacy tort (June 2025); social media minimum age (December 2025); Microsoft (2025).
- **Non-legal:** CHOICE testing and campaigns; Scamwatch; media; bank warnings.

> Write the judgement first and test every paragraph against it. If a paragraph does not move the judgement, cut it.

DATE	QUESTION AND ALTERNATIVE	MARK OUT OF 25	THE ONE CHANGE I WILL MAKE NEXT TIME

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