

NATIONAL UNIVERSITY OF IRELAND, GALWAY
FACULTY OF LAW

SEMESTER I EXAMINATIONS, 2002/2003

BACHELOR OF ARTS (LEGAL SCIENCE) – THIRD YEAR
BACHELOR OF CORPORATE LAW – THIRD YEAR
BACHELOR OF CIVIL LAW – THIRD YEAR
LL.B ALL YEARS
ERASMUS/OCCASIONAL STUDENTS

INFORMATION TECHNOLOGY LAW – (LW383)

Dr. P. Leith
Professor L. O'Malley

Time Allowed: Two Hours. (ERASMUS Students 2½ Hours).
Please answer **THREE** questions. All questions carry equal marks.

1. 'The provisions of the EU directive [Data Protection Directive 95/46/EC] are similar in many respects to those set out in the earlier Council of Europe Convention. Accordingly, because Ireland has already given effect to that Convention, the general principles of data protection law should not need to be changed significantly.' (Data Protection Commissioner's Website).
Discuss.

2. Do **EITHER** (a) **OR** (b):

- (a) Examine the extent to which data controllers generally are obliged to register under the Data Protection Act 1988, and explain the circumstances, if any, in which a firm of solicitors might be required to do so.

OR

- (b) The Internet, because of its global reach, has given rise to new kinds of legal problems which are difficult to resolve. Examine the nature of these legal problems and how the Internet might best be regulated.

3. Do **EITHER** (a) **OR** (b):

- (a) Although legal information retrieval systems (LIRS) such as Lexis may have a limited use in legal research, Richard Suskind (*The Future of Law*) suggests that such systems can be easily enhanced to better meet the needs of even inexperienced users.
Discuss.

OR

- (b) Alan has developed new computer software for use by architects that he wishes to licence to customers. He approaches you for advice as to how he might best protect his rights by means of a software contract or licence. Advise him on how he should do so and on the more important elements of such a contract.

4. Do **EITHER** (a) **OR** (b):

- (a) Although the Council of Europe's Recommendation on Computer Crime (No. (89) 9) resulted in the approximation of national concepts regarding certain forms of computer misuse, it has been argued that advances in technology and the emergence of new kinds of 'cyber-space offences' now justify the ratification of the Convention on Cybercrime (ETS no. 185). Examine the approach taken in the Convention and assess its merits.

Or

- (b) The Criminal Damage Act, 1991 and other statutory amendments have provided Ireland with an effective and adequate legal code to deal with the modern phenomenon of computer crime. Discuss.

5. Do **EITHER** (a) **OR** (b):

- (a) '...[T]he governance of the Internet by the EU, as opposed to its constituent Member States, is concerned with social issues only where they have the capacity to distort the internal market or to effect the competitiveness of Union producers on international markets. This is reflected in the concerns over the Internet infrastructure, the facilitation of electronic commerce through the reform of national commercial laws, and the need to ensure the international application of personal data privacy laws.' (Andrew Charlesworth, 'The governance of the Internet in Europe'). Discuss.

OR

- (b) Critically discuss the framework for electronic commerce created by the Directive on electronic commerce (Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market).

6. Write brief notes on any two of the following:

- (a) Internet Domain Names and Trade Mark infringement.
- (b) The postal rule in electronic commerce.
- (c) The significance of the Electronic Commerce Act, 2000.
- (d) The problem of controlling Internet pornography

END