

# COUNCIL OF LEGAL EDUCATION NORMAN MANLEY LAW SCHOOL

## LEGAL EDUCATION CERTIFICATE

### FIRST YEAR SUPPLEMENTARY EXAMINATIONS, OCTOBER 2020

#### LEGAL DRAFTING AND INTERPRETATION

WEDNESDAY, OCTOBER 14, 2020

#### Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, **not their names**, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering the question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **but must state at the beginning of the answer the name of the relevant territory.**
- (i) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (j) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year I OCTOBER 2020 EXAMINATIONS, LEGAL DRAFTING AND INTERPRETATION DROP BOX on TWEN by Thursday, October 15, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (k) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
  - Log in using your username and password credentials and select the **TWEN** button.
  - Click on the link for “**Assignments and Quizzes**” located on the left-hand side of the navigation screen.
  - Select the relevant examination and the examination drop box as follows:
    - Year I students with Examination ID numbers between 1100 -1176 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1176***”.
    - Year I students with Examination ID numbers between 1177 -1252 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1177-1252***”.
    - Year I students with Examination ID numbers between 1253 -1326 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1253-1326***”.
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## **ANSWER PARTS A, B AND C**

### **PART A**

1. The Government has been seeking to introduce controversial legislative changes to labour relations practices in the garment sector. Alarmed by this development, some persons gathered in the city centre near Parliament, on the days scheduled for debate each week, to protest against the proposed changes. Protest leaders set up a makeshift stage from which various persons criticised the Government.
2. Just before the third week of protests, there were clear signs that the Government was wavering in its position. Sensing victory, protest leaders communicated with their supporters via social media, with posts like the following:

*Keep up the pressure. Turn out to hear your leaders, and bring your songs, musical instruments, whatever, to keep us going in style.*
3. During both the third and fourth weeks, there was a jubilant atmosphere at the protest site. Over several hours at each gathering, the speeches of protest leaders electrified the crowd. From time to time, several of the protesters were permitted to take to the

stage, singing, dancing and playing musical instruments. These performances lasted about 50 minutes in total each week.

4. Up to this point, the police had been tolerant of the political protests near Parliament, simply maintaining a watchful presence at a reasonable distance from the protesters. Later, however, they opted to take decisive action, basing this change of strategy on the legislative provisions referred to in paragraphs 5 and 6 below.
5. Under section 11 of the Public Gatherings (Restrictions) Act (“the PGRA”), any person who organises a public gathering of over 60 persons in the city centre which involves the staging of “any festival or concert” commits an offence, unless he first obtained a Class B permit from the police.
6. The PGRA defines the word “concert” to mean “any performance by professional or amateur musicians or singers for a public audience, whether as part of a larger event or otherwise”.
7. In the fifth week of the protests, a police inspector called on the group of at least 70 protesters to disperse, claiming that the gathering was illegal, since the leaders had not obtained the necessary permit under the PGRA. The group ignored the announcement.
8. The police broke up the assembly and arrested the leaders. They have been charged under section 11 of the PGRA with organising a public gathering of over 60 persons which involves the staging of a “concert”, without having obtained a Class B permit. The leaders are now on bail.
9. You are an associate at the law firm retained to represent the protest leaders. A partner at the firm has passed the file to you, with instructions to examine the law and prepare a memorandum on any possible defence to the charge the leaders may have.
10. From your research, you make the following observations:
  - (i) section 11 of the PGRA falls under PART II of the Act, which bears the Heading:

*Public Events Associated with National Celebrations*
  - (ii) PART II comprises sections 10 to 17 of the PGRA.
  - (iii) Under section 12 of the PGRA, no registered political party is permitted to conduct any political rally within a radius of ten kilometres from the headquarters or other office of another registered party.
  - (iv) Under section 13 of the PGRA, there is an absolute prohibition on the staging of any book fair, art exhibition, horticultural display or other public exhibition in the Waterton district, which is located on the outskirts of the capital, adjacent to an ecologically sensitive marine park.

- (v) Section 15 of the PGRA prohibits the promotion of any fair, parade, exhibition or other cultural expression related to the National Independence Week observances, unless the promoter has obtained a Certificate of Approval from the Permanent Secretary in the Ministry of Entertainment and Cultural Affairs.
- (vi) Section 17 of the PGRA restricts the promotion of any public event associated with the commemoration of the work of National Heroes, unless the promoter has obtained a permit from the Office of the Prime Minister.

Taking into account all the facts given, draft a memorandum to the partner, responding to his instructions.

## **PART B**

The facts of PART A remain the same EXCEPT as indicated below:

- (i) Section 11 of the PGRA only differs from the description indicated in paragraph 5 of Part A, in that the public gathering must involve the staging of “any festival, pageant, parade, concert or amusement fair”.
- (ii) The words “festival”, “pageant”, “parade”, “concert” and “amusement fair” appearing in section 11 of the PGRA are not defined under the statute, and no other section or aspect of the Act clarifies the scope of their meanings.
- (iii) Paragraph 10 of Part A does not apply to this Part.

Prepare a memorandum to the partner based on these altered facts.

## **PART C**

1. Some decades ago, the Government had been anxious to maximise its earnings from the lucrative tourism industry by attracting investors from non-English-speaking regional countries. Aware of the huge, untapped investment potential to be realised from the Caribbean and South America, the Government decided to offer special incentives to certain businesses from this region which desired to invest in the local villa resort market.
2. Ultimately, a Bill incorporating the Government’s policy was tabled in Parliament and was enacted into law as the Guest Houses (Incentives) Act (“the GHIA”) Under the GHIA, special incentives are offered to foreign investors who have businesses registered in any “Hispanic country in the Caribbean or South America”.
3. Jose Lima, a Brazilian, operates a registered tourist business in Rio de Janeiro. He also has some business investments in your jurisdiction, and is excited to learn more about what he calls the “South American Incentives Scheme” offered by your

Government. He contacts the law firm to which you are employed for advice as to the procedures involved in subscribing to this scheme.

4. Your supervisor passes Lima's file to you with instructions to research the preliminary point of whether Lima's business, being registered in a Portuguese-speaking country in South America, qualifies as a potential beneficiary under the GHIA. Your research reveals the following:
  - (i) There is no definition of the word "Hispanic" in the GHIA, and the Act as a whole provides no clear guidance as to the meaning of the term.
  - (ii) At the time of the introduction of the GHIA into law, "Hispanic" was invariably used to refer to Spanish-speaking contexts exclusively.
  - (iii) Over the decades, however, there has been some relaxation in the understanding of "Hispanic": the widely-held view is still that it covers only Spanish-speaking populations, but a small minority of persons hold the view that the term extends to populations which speak Portuguese.
  - (iv) A senior official in the Ministry of Industry and Investment Promotion, which processes applications under the incentives scheme, indicated to you that no application has ever been received from Brazil, but that, "in all probability", there should be no difficulty in entertaining such applications.

Based on all the facts provided, prepare a memorandum responding to your supervisor's instructions.

**Note:**

- (i) Your answer to Parts A, B and C should not in total exceed **4000 WORDS**.
- (ii) Your memoranda should each include the appropriate headings and reference the relevant facts.

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**END OF PAPER**