

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, AUGUST 2021**

LEGAL DRAFTING AND INTERPRETATION

MONDAY, AUGUST 02, 2021

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 to be used
- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.
- (h) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (i) In answering any Part, 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.**
- (j) 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.
- (k) 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 AUGUST 2021 EXAMINATIONS, LEGAL DRAFTING AND INTERPRETATION DROP BOX on TWEN** by **August, 03, 2021** **NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

- (l) 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 -1192 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box A Year I - 1100-1192***”.
 - Year I students with Examination ID numbers between 1193 -1283 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box B Year I - 1193-1283***”.
 - Year I students with Examination ID numbers between 1284 -1376 must upload script, cover page and Academic Integrity Statement to folder titled “***Drop Box C Year I - 1284-1376***”.

ANSWER PARTS A AND B

PART A

1. Section 24 of the Firearms (Regulation and Control) Act (“the FRCA”) reads as follows:

“24 (1) No person shall deal in, exchange or possess a firearm unless he is the holder of a valid firearms certificate issued by the Ministry of Justice and National Security.

(2) A person who contravenes subsection (1) commits an offence and is liable to the penalties set out in the Second Schedule.”

2. Section 2 of the FRCA, so far as relevant, is in these terms:

“2 (1) In this Act –

...

“firearm” means any lethal, barrelled weapon that is designed or adapted for the discharge of a shot, bullet or other missile”;

...

(2) Notwithstanding the definition of “firearm” under subsection (1), any of the following devices shall be deemed to be a firearm for the purposes of this Act:

(a) an air rifle;

(b) an antique gun or replica gun;

(c) any weapon, of whatever description, that discharges or emits a harmful substance.”

3. There is no definition under the FRCA of any of the words used in the definition of “firearm” under section 2(1) of that Act, nor of any of the words in section 2(2). Further, no clear guidance on the meaning of these words can be derived from examining other provisions of the Act, or the background to the introduction of the legislation.
4. Dante Limon is an avid sports enthusiast who lives in the Dentley district of your jurisdiction. He is actively involved in his community gun club, known as the Dentley Rifle Association (“the DRA”), of which he is the President. The DRA is duly registered with the authorities, and the relevant firearm certificates have been issued by the Ministry of Justice and National Security for the rifles used by the club.
5. Limon has been observing, with mounting alarm, the growing incidence of violence in your jurisdiction, and has legally purchased a gun for his personal protection. Recently, while visiting Florida in the United States of America, he attended a gun exhibition at which certain tasers were on display. On inquiry, he learnt that individuals could legally own these devices in the state of Florida.
6. He also discovered that the “TASER XXY” brand was capable of releasing a low-voltage electrical current which has the effect of disabling an attacker for up to 10 minutes, but leaving no permanent physical damage. The taser has no barrel. Impressed by the features of this device, Limon purchased a taser and brought it back to your jurisdiction.
7. In June 2021, the DRA hosted a weekend of activities, which was open to the public. During the events, Sergeant Agile and a team of police officers went to the DRA’s premises, acting on information that there were persons in possession of illegal drugs at the location. Two persons, allegedly found with illicit drugs, were

arrested. During the search, Agile also discovered the Taser XXY device in Limon's trousers, and arrested him as well, upon learning that he did not have a firearm certificate for the taser. Limon was later charged for possession of a firearm, contrary to section 24 of the FRCA.

8. Limon's file has come before the Director of Public Prosecutions/Attorney General ("DPP/AG") in your jurisdiction. He has passed the file to you, a legal officer in the DPP's/AG's department, requesting that you prepare a memorandum to him on whether the taser properly falls within the purview of the FRCA.

Required:

Review the facts of the case and prepare the memorandum to the DPP/AG.

PART B

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

- (i) Paragraphs 1, 2 and 3 are modified as follows:
 1. The Firearms (Regulation and Control) Act ("the FRCA") was enacted decades ago, in September 1947. Section 24 of the FRCA reads as follows:

"24 (1) No person shall deal in, exchange or possess a firearm unless he is the holder of a valid firearms certificate issued by the Ministry of Justice and National Security.

(2) A person who contravenes subsection (1) commits an offence and is liable to the penalties set out in the Second Schedule."
 2. Section 2 of the FRCA, so far as relevant, is in these terms:

"2. In this Act –

...

"firearm" means any weapon that is designed or adapted for the discharge of a shot, bullet, missile or any other matter;

..."
 3. There is no definition under the FRCA of the words "weapon", "shot", "bullet", "missile" or "matter" used in the definition of "firearm" under section 2 of that Act. Further, no clear guidance on the meaning of these words can be derived from examining provisions of the Act, apart from the section 2 definition itself.
- (ii) The following paragraphs (9,10 and 11) are inserted immediately after paragraph 8 of PART A:

9. Your research into the matter uncovers that at the time of the passage of the FRCA:
- (a) both the Government of the day and the public at large were alarmed at the rising levels of crimes, especially homicides, which were being committed by the use of conventional weapons;
 - (b) ordinary handguns and certain rifles featured prominently among the weapons of choice at that time; and
 - (c) tasers were not in vogue in your jurisdiction, and therefore neither law enforcement nor any member of the public was in possession of these devices.
10. Your further research indicates that in the last 10 years, there has been a steady increase in the use of tasers in your jurisdiction, principally among more affluent members of society. This development has been spurred by the ready availability of such devices, and various types of pepper spray, in foreign jurisdictions, in particular, the United States of America.
11. In many cases, it appears that these devices were acquired to provide an additional means of protection against attack by criminal elements. There is also evidence of some criminals involved in larceny using these devices to temporarily immobilise their victims.

Required:

Prepare the memorandum to the DPP/AG based on these altered facts.

Note:

- (i) Your answer to Part A should not exceed **1,400 words**.
- (ii) Your answer to Part B should not exceed **2,600 words**.

END OF PAPER