

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

FIRST YEAR EXAMINATIONS, AUGUST 2022

LEGAL DRAFTING AND INTERPRETATION

THURSDAY, AUGUST 11, 2022

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 a 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 2022 EXAMINATIONS, LEGAL DRAFTING AND INTERPRETATION DROP BOX on TWEN** by **FRIDAY, AUGUST 12, 2022 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 - 1185** must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I – 1100 - 1185”**.

- Year I students with Examination ID numbers between **1186 - 1271** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year I - 1186 - 1271**”.
 - Year I students with Examination ID numbers between **1272 - 1357** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year I - 1272 - 1357**”.
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1. For several years, there had been lively public debate on the general efficiency of the customs system in the jurisdiction. This prompted various commentators, including some Parliamentarians, contributors to the print and electronic media, and academics, to call for fundamental reform of customs operations.
2. The Government itself had been concerned about declining customs revenues, owing to the suspected undervaluing of various goods, particularly luxury items, imported into the jurisdiction.
3. Consequently, in an effort to address all the concerns, the Government held consultations with private sector representative groups, customs brokers and other relevant stakeholders. It was conceded that there were several deficiencies in the existing system, which needed to be remedied. As a direct result, a policy decision was taken to overhaul the customs process to make it more efficient, and to ensure that it reasonably balanced the expectations of both the Government and citizens.
4. In 2019, the Government introduced a new Customs Act (“the CA”) to give effect to its recent policy decision. There are various provisions in the CA which are designed to streamline the previous customs scheme, to ensure that the various procedures are conducted expeditiously, for the public benefit.
5. Part VII of the CA, which governs sections 54 to 69, subjects the importation of certain goods to special restrictions, with a view to protecting the Government’s revenue intake. These restrictions require that goods described in section 58 of

the CA must undergo more detailed customs screening procedures than was the case previously.

6. Section 58 of the CA lists the relevant goods as follows:

“(a) helicopters;

(b) luxury jets;

(c) yachts;

(d) A-grade fishing vessels;

(e) coastal watercraft.”

7. Helicopters, luxury jets, yachts and A-grade fishing vessels are all engine-powered. The Customs Act provides no clear guidance as to the scope of the term “coastal watercraft”.

8. The Long Title to the CA reads:

“AN ACT to create a modern framework for the delivery of customs services; to streamline the relevant customs procedures to ensure that services are delivered efficiently and with due expedition; to ensure that the entitlement of the state to collect revenue as prescribed by law is fully safeguarded, while taking into consideration any rights vested in the taxpayer, and for connected matters.”

9. Lo-Price Resorts (“LPR”) is a hotel on the east coast of the jurisdiction. To enhance the quality of the guest experience, LPR periodically imports high-value kayaks (canoes) of the XYZ brand, which have been specially designed to operate in coastal waters. These kayaks are hugely popular with guests.

10. The XYZ kayaks are manually propelled.

11. The manager of LPR has recently placed an order for another set of the kayaks and is preparing for unusually lengthy customs processing, in light of the

requirements of Part VII of the CA. On arrival of the kayaks in the jurisdiction, a question arose as to whether they fell within the scope of section 58 of the CA.

12. The matter is being considered by the Legal Unit in the Customs Department within the Ministry of Finance. The Legal Officer originally assigned to the case made a file note which states in part:

“It is not quite clear to me that these XYZ kayaks fall under section 58 of the CA. It is obvious that the kayaks are not any of the specific aircraft or vessels under paragraphs (a) to (d) of the section. While on the face of it, the kayaks seem to be captured under the wide ambit of ‘coastal watercraft’ (paragraph (e)), this may be negated by consideration of all the objects in the five paragraphs taken as a whole. More research is needed.”

13. The Head of Legal Unit now asks you to review the file and advise him whether the XYZ kayaks fall within the scope of the CA.

Required:

Prepare the legal opinion requested by the Head of the Legal Unit. (The word count for the opinion must not exceed **3,000 words**.)

END OF PAPER