

COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS 2025

LEGAL DRAFTING AND INTERPRETATION

(MONDAY, MAY 12, 2025)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **ALL** questions.
- (c) In answering any 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.**
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) Answers should be written in black or dark blue ink. Erasable pens are not allowed.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

QUESTION 1

Cal Nord, a dog enthusiast, owns a German Shepherd (“Gator”) which he has raised as a guard dog to provide protection for the family at his home. Nord keeps Gator for only a portion of the day in a secure kennel, but releases the dog during the rest of the daytime hours in order to enhance the security of the home. At nights, Gator is allowed to roam the yard freely.

Gator has proven to be an effective watchdog at nights, as it is aggressive towards persons or other animals that come close to, or attempt to enter, the residence. Over time, however, Nord has found that Gator’s temperament towards strangers is unpredictable during the day: on some occasions, the dog does not react to their entry on the premises but, at other times, it snarls at and moves threateningly towards them, and has to be restrained.

Some time ago, Nord affixed a sign marked “BEWARE DANGEROUS DOG” to the entrance gate to the home but, over the years, the lettering has faded, making it difficult to decipher the notice.

In January 2025, Nord contacted Ian Fyle, a plumber who had recently been recommended to him, seeking assistance in clearing the kitchen drain which had become clogged. Fyle promised to come later that same day. Nord then confined Gator to the kennel.

Some hours later, Nord entered the kennel to provide water to Gator, but failed to re-lock it as he ordinarily would, as he dashed to the house to answer his mobile phone, which had started to ring.

Nord was still on the phone over 45 minutes later when Fyle arrived at the premises. There is no buzzer at the entrance gate. When no one responded to his knock at the gate, Fyle entered the property. As he headed towards the front door, Fyle was attacked and hit to the ground by Gator, which had escaped from the unlocked kennel. In the attack, Fyle was severely bitten on his left leg. The expensive tool box which he had been carrying, and some of its contents were also mutilated by Gator.

Fyle has threatened legal action against Nord, who has now approached you for legal advice. In

your research, the Animals (Custody and Supervision) Act 1998 (“the ACSA”), comes to attention. Extracts from the ACSA are set out below:

Animals (Custody and Supervision) Act 1998

...

2. In this Act –

“harm” includes loss of life, personal injury and damage to property;

...

45(1). Subject to this section, liability for harm caused by an animal shall be determined in accordance with the principles of the law of negligence.

(2). In determining whether a reasonable standard of care was exercised in relation to the keeping, management and control of an animal, a court shall take into account –

(a) the nature and disposition of the animal;

(b) measures taken for the custody and control of the animal; and

(c) measures taken to warn others of any vicious or menacing propensity that it might exhibit.

(3) It is not necessary for a person seeking damages for harm caused by an animal to establish prior knowledge on the part of any other person of a vicious or menacing propensity of the animal.

Write to Nord giving your opinion on whether he has incurred any liability under the ACSA for Gator’s attack on Fyle.

Note:

For the purposes of this examination, your opinion need not include the customary statement of material facts.

QUESTION 2

Rory Max is a registered member of the Southern Football Club (“the SFC”), which was established to promote the sport of football among enthusiasts in the southern part of your jurisdiction. By joining the SFC, Max had, in effect, entered into a contract with all other club members, subject to the terms and conditions set out in Rules prescribed by the club.

Max is passionate about football, but is sometimes intolerant of others who do not share his perspectives on the sport. Periodically, he is involved in heated arguments with other members or visitors on the club premises. In January 2025, a few members made separate complaints to the club’s management committee (“the committee”) about Max’s arrogant conduct, but the committee had not brought these complaints to his attention.

In late February 2025, following another complaint from a club member, the committee considered Max’s general behaviour at a meeting, and agreed that it was necessary to take decisive action. Following a directive from the committee, the committee secretary sent Max a letter, dated March 10, 2025, the essential parts of which appear below:

Re: Unbecoming Conduct as SFC Member

The committee considers that your overall behaviour as an SFC member leaves much to be desired, and is inconsistent with the ideals of the club. In fact, we have had several complaints from members about your unseemly conduct, especially on the club premises.

The committee therefore gives you notice to appear at a committee meeting at the club premises on March 22, 2025, when the matter of your expulsion from the club will be considered.

The letter was delivered to Max on March 10, 2025, the same date it was signed by the secretary.

On March 22, 2025, Max attended the committee meeting, which was recorded. The committee has a full complement of 12 members, but on that day only nine members were present.

From the start, the committee was largely in a hostile mood. Max was asked whether he had any comments to make on his behaviour. He began by asserting that he had done nothing to justify his expulsion, but committee members then interrupted, dismissing his claim. At different points during the rest of the meeting, Max's attempts to clarify his position or ask questions were met with scorn.

Ultimately, seven of the nine committee members at the meeting voted to expel him from the SFC.

Max feels that he has been unfairly treated by the committee, and is seeking your legal advice on the matter of his expulsion. You have obtained a transcript of the March 22, 2025 meeting, and a copy of the SFC's Rules. Relevant extracts from the Rules appear below:

RULES OF THE SOUTHERN FOOTBALL CLUB

...

18. EXPULSION

18.1 The committee may expel any member who offends against the rules of the club or whose conduct, in the opinion of the committee, renders him unfit for membership of the club.

18.2 Before any such member is expelled, the secretary shall give him at least 10 days' written notice to attend a meeting of the committee, and shall inform him of the nature of the complaints made against him.

18.3 No member may be expelled unless he has first been given a reasonable opportunity to appear before the committee and properly respond to complaints made against him, and at least two-thirds of the committee then present at the meeting vote in favour of his expulsion.

In light of the facts and the applicable Rules, prepare an opinion with the advice requested by Max.

Note:

For the purposes of this examination, your opinion need not include the customary statement of material facts.

QUESTION 3

Section 32 of the Contraband Smuggling (Prevention) Act 2002 (“the CSPA”) reads as follows:

32. It is an offence for any person to knowingly provide goods classified as contraband under this Act to any other person.

Cigarettes imported into your jurisdiction, without having been subject to local duty required by law, are classified as “contraband” under the CSPA.

Leo Mart is a member of a criminal gang involved in smuggling cigarettes into your jurisdiction, and then selling them on the ‘black market’ at a handsome profit. The relevant duty applicable to the cigarettes is therefore not paid to the revenue authorities.

In February 2025, Mart and other gang members participated in a cigarette smuggling operation. Having taken possession of a large quantity of cigarettes, Mart was about to deliver the goods to some other members of the gang, when it became clear that the police were hard on the gang’s trail.

Changing the original plan, Mart handed the cigarettes over to his former girlfriend, Annie Dice, whom he persuaded to temporarily hold the goods for him at her home until it was safe to retake possession of them. Dice is not a member of the gang.

Mart subsequently told Dice to expect him to visit her on April 3, 2025 to retrieve the cigarettes from her home. On April 3, 2025, Mart visited Dice as arranged, and she directed him to a rear room of her home where the cigarettes had been hidden. He removed the goods and left with them.

Ultimately, the police made a breakthrough in their investigations, and arrested and charged Mart and other gang members for various offences. Dice was also charged for knowingly providing contraband to another person, contrary to section 32 of the CSPA.

At Dice's trial, her defence counsel contended that she had committed no offence under section 32. While conceding that the word "provide" is normally wide enough to cover the act of making goods available to any other person, counsel submitted that, in context, the word should be given a more restrictive interpretation. He urged the court to limit its application under section 32 to cases of gang members making the contraband available to others in the criminal network, or to the ultimate purchaser on the 'black market'.

Defence counsel supported this position by pointing to other sections close to section 32 of the CSPA, namely, sections 28, 29 and 36, all of which plainly created offences targeting masterminds and active members of gangs. Counsel therefore argued that Dice was not the intended target of section 32, since she was not a gang member, although she had assisted Mart in regaining possession of the cigarettes.

During a break in the trial, your supervisor at the Office of the Director of Public Prosecutions/Attorney General asks you to send him an opinion assessing the merits of defence counsel's arguments.

Your research reveals that:

- (i) there is no definition of the word "provide" under the CSPA;
- (ii) apart from sections 28, 29 and 36 cited by defence counsel, there are other offence-creating provisions under the CSPA, some of which appear to be directed to particular criminal actors, while others appear to be of wider application; and

- (iii) when viewed as a whole, the CSPA gives no clear indication of the intended scope of application of the word “provide” under section 32.

Examining the background to the CSPA, you discover that before its introduction in Parliament:

- (a) there was a heightened increase in smuggling of a variety of goods, owing to the porous borders of countries in the Caribbean and their vulnerability to penetration by criminal elements;
- (b) a number of civil society groups had been calling for intensified legislative measures to stem the tide of smuggling;
- (c) the Government had set up a Criminal Law Advisory Board (“the Board”) in response to the societal concerns; and
- (d) the Board had recommended the adoption in legislation of stringent measures to not only identify masterminds and active gang members involved in smuggling, but also to break up the entire network of associates supporting the illegal activities.

The CSPA, as eventually enacted, had overwhelmingly incorporated the Board’s recommendations.

In light of the above research, prepare the opinion requested by your supervisor to assist him in addressing the submissions of defence counsel.

Note:

For the purposes of this examination, your opinion need not include the customary statement of material facts.

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