



**CARIBBEAN
EXAMINATIONS
COUNCIL**

**Caribbean Advanced
Proficiency Examination®**

SYLLABUS

LAW

CXC A23/U2/17

Effective for examinations from May–June 2019



CAPE®

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NOTE TO TEACHERS AND LEARNERS

This document CXC A23/U2/17 replaces CXC A23/U2/09.

Please note that the syllabus was revised and amendments are indicated by italics.

Revised 2009
Revised 2017
Amended 2025

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PLEASE NOTE



This icon is used throughout the syllabus to represent key features which teachers and learners may find useful.

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Introduction

The Caribbean Advanced Proficiency Examination® (**CAPE**®) is designed to provide certification of the academic, vocational and technical achievement of students in the Caribbean who, having completed a minimum of five years of secondary education, wish to further their studies. The examinations address the skills and knowledge acquired by students under a flexible and articulated system where subjects are organised in 1-Unit or 2-Unit courses with each Unit containing three Modules. Subjects examined under **CAPE**® may be studied concurrently or singly.

The Caribbean Examinations Council offers three types of certification at the **CAPE**® level. The first is the award of a certificate showing each **CAPE**® Unit completed. The second is the **CAPE**® Diploma, awarded to candidates who have satisfactorily completed at least six Units, including Caribbean Studies. The third is the **CXC**® Associate Degree, awarded for the satisfactory completion of a prescribed cluster of *eight* **CAPE**® Units including Caribbean Studies, Communication Studies *and Integrated Mathematics*. *Integrated Mathematics is not a requirement for the **CXC**® Associate Degree in Mathematics*. The complete list of Associate Degrees may be found in the **CXC**® Associate Degree Handbook.

For the **CAPE**® Diploma and the **CXC**® Associate Degree, candidates must complete the cluster of required Units within a maximum period of five years. *To be eligible for a **CXC**® Associate Degree, the educational institution presenting the candidates for the award, must select the Associate Degree of choice at the time of registration at the sitting (year) the candidates are expected to qualify for the award.* Candidates will not be awarded an Associate Degree for which they were not registered.

♦ RATIONALE

Law is an essential tool for ensuring relative stability, peace and order in society, for regulating inter-personal behaviour and expectations and for defining public and private rights. The study of Law not only assists students who wish to embark on further study and training for entry into the legal profession, but also addresses the needs of other persons engaged in occupations which require some knowledge of the law, such as law clerks, paralegals, administrators, managers, the police and other public officers. It also serves to inform persons of their rights and obligations, and to inculcate in students certain positive values, which are necessary in any civilised society.

This syllabus seeks to develop knowledge and understanding of critical legal concepts, as well as, analytical, functional and problem-solving skills, and the ability to synthesise and evaluate legal materials. It also seeks to promote an awareness and appreciation of the role and mechanisms of Law, in the resolution of disputes whether by the courts (civil or criminal); or Alternative Dispute Resolution (ADR), such as, arbitration or mediation. Moreover, in order to motivate students, emphasis is placed on providing an exciting, challenging and intellectually stimulating framework for them to engage in the study of Law as a discrete discipline and an important tool of social engineering. This course in Law provides the basis and scope for promoting a sound knowledge and understanding of legal principles and the role of law in the society, particularly in the evolving and developing Caribbean states. It also facilitates movement by students into professional and other law related programmes.

The syllabus will help students to acquire the skills of learning to know, learning to do, learning to live together, learning to be and learning to transform oneself and society, as defined in the UNESCO Pillars of Learning. *Besides, students who successfully complete this course of study in CAPE® Law will have attained the attributes of the Ideal Caribbean Person as outlined in the document, The Caribbean Education Strategy (2000). These include being emotionally secure with a high level of self –confidence and self-esteem; is aware of the importance of living in harmony with the environment; demonstrates multiple literacies, independent and critical thinking; and has a positive work attitude.*

Ultimately, a student who completes the course of study will be engaged in activities which foster the development of the twenty-first century skills of collaboration, critical thinking and communication.

♦ AIMS

The syllabus aims to:

1. promote and develop knowledge and understanding of legal principles in selected areas of law in the Commonwealth Caribbean;
2. develop techniques of legal reasoning and the ability to analyse and solve legal problems, with reference to the recognised sources of law;
3. develop an appreciation of the role of law in society;

4. promote respect for the Rule of Law and legal institutions in society;
5. promote a critical awareness of the process of developing Caribbean jurisprudence;
6. encourage an awareness of the fundamental rights and freedoms enshrined in the constitutions of Commonwealth Caribbean states and the methods of their enforcement; and,
7. sensitise individuals to their right to proper state administration.

◆ SKILLS AND ABILITIES TO BE ASSESSED

The examinations will test candidates' skills and abilities under two Profile Dimensions.

- | | |
|------------------------------|--|
| 1. Conceptual Knowledge (CK) | <p>The ability to:</p> <ul style="list-style-type: none"> - recall legal principles, concepts and theories; - describe legal procedures; and, - explain legal concepts. |
| 2. Use of Knowledge (UK) | <p>The ability to:</p> <ul style="list-style-type: none"> - select and use appropriate facts, concepts, principles and rules in a variety of contexts; - apply legal precedent from case material or statute to solve factual or simulated problems; - analyse a body of information to determine the legal issues contained therein; - analyse material and make logical judgements; - interpret <i>cases and statutes, and material from textbooks, legal journals and other sources</i>; - deduce common themes, synthesise themes in a logical manner; and, - draw conclusions based on legal research. |

◆ PREREQUISITES OF THE SYLLABUS

Any person who has completed five years of secondary education or its equivalent should normally be able to pursue the course of study defined by the syllabus. However, it is desirable that a candidate should have good verbal and written communication skills.

♦ **STRUCTURE OF THE SYLLABUS**

The syllabus is arranged into two Units. Each Unit consists of three Modules, each Module requiring 50 hours.

UNIT 1: PUBLIC LAW

Module 1	-	Caribbean Legal Systems
Module 2	-	Principles of Public Law
Module 3	-	Criminal Law

UNIT 2: PRIVATE LAW

Module 1	-	Law of Tort
Module 2	-	Law of Contract
Module 3	-	Real Property

Lists of resources are provided in the syllabus. The lists provide information that may be helpful for the study of each Module.

Each Unit forms a discrete package for certification.

For each Module there are general and specific objectives. The general and specific objectives indicate the scope of the content, on which the examination will be based. However, unfamiliar situations may be presented as stimulus material in a question.

♦ **APPROACHES TO TEACHING THE SYLLABUS**

The specific objectives indicate the scope of the content and the activities that should be covered. The students should be exposed to accurate and unbiased content and skills that will foster more prepared and critical-thinking citizens capable of effectively participating in a dynamic society. Therefore, the role of the teacher is to employ a collaborative, highly practical and industry-driven approach to facilitate the students' learning.

♦ UNIT 1: PUBLIC LAW

MODULE 1: CARIBBEAN LEGAL SYSTEMS

GENERAL OBJECTIVES

On completion of this Module, students should:

1. *develop a general understanding of law;*
2. *appreciate the complex nature of law and the legal institutions;*
3. *understand the dynamic role(s) and functions of law in changing Commonwealth Caribbean societies; and,*
4. *develop skills in applying principles of law to a given set of facts.*

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

1. *describe the nature of law;*

The Nature of Law:

- (a) *origin, role, and functions;*
- (b) *theories of law: natural law and positive law;*
- (c) *law and religion; and,*
- (d) *law and morality.*

2. *assess the importance of the contribution of the various sources of law to the development of Commonwealth Caribbean law;*

Concepts of the phrase 'sources of law':

- (a) *literary sources – constitution;*
- (b) *legal sources – legislation (primary and subsidiary) and interpretation by the Courts;*
- (c) *historical sources – common law;*
- (d) *equity – origin and development in the Caribbean;*
- (e) *judicial precedent; and,*
- (f) *customs and conventions.*

UNIT 1

MODULE 1: CARIBBEAN LEGAL SYSTEMS (cont'd)

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

3. *explain* the bases on which the law can be classified;

Classification of Law:

- (a) reasons for classification;
- (b) classification bases:
 - (i) subject matter – for example, contract, criminal, tort;
 - (ii) functional – for example, substantive and procedural; and,
 - (iii) conceptual – for example, private law and public law.

4. *examine the structure* and operation of the court system;

Structure and Hierarchy of the Criminal and Civil Courts

- (a) *Advantages and disadvantages* of the Judicial Committee of the Privy Council and the Caribbean Court of Justice.
- (b) Courts of Appeal, High Courts and Supreme Courts.
- (c) Magistrates' Courts, including Juvenile Court, Family Court and Petty Sessions.

5. *evaluate* the role and function of named functionaries and institutions of the legal process;

Role and function of:

- (a) legal personnel (Judges, Registrars, Bailiffs, Marshalls; *Attorney General, Director of Public Prosecution and Attorneys*); and,

UNIT 1

MODULE 1: CARIBBEAN LEGAL SYSTEMS (cont'd)

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

- | | |
|---|---|
| | (b) the Jury (eligibility and disqualification, advantages and disadvantages of the jury system). |
| 6. assess alternative methods of dispute resolution; and, | Alternative methods of dispute resolution (ADR) – (arbitration and mediation). |
| 7. evaluate the role and function of the Ombudsman. | The role and function of the Ombudsman. |

Suggested Teaching and Learning Activities

To facilitate students' attainment of the objectives of this Module, teachers are advised to engage students in the teaching and learning activities listed below.

1. *Engage students in research on careers in the field of Law as well as those requiring knowledge of Law.*
2. Develop scrapbooks of newspaper reports and clippings on issues related to Caribbean legal systems.
3. Collect material on different ADR processes and study developments in their territory.
4. Allow students to participate in panel discussions involving resource persons with expertise in Caribbean legal systems and in ADR processes.
5. Allow students to participate in debates, moots and prepared speeches on issues related to Caribbean legal systems and ADR processes for presentation and critique by peers.
6. Conduct class discussions on issues related to law that are presented on the Editorial Pages of daily newspapers.
7. Use the Internet and electronic media sources to obtain information on new legislation and legal issues in Parliament.
8. Encourage students to attend Court and Parliament and discuss the issues and report on issues of law.
9. Make use of law libraries for research purposes.

UNIT 1

MODULE 1: CARIBBEAN LEGAL SYSTEMS (cont'd)

RESOURCES

- Antoine, R. *Commonwealth Caribbean Law and Legal Systems (2nd Edition)*. London: Cavendish, 2008.
- Britton, P. *Alternative Dispute Resolution*. *1 Guy L. R.* 108, 1999.
- Eversley, C. A. *Law, Religion and Morality*. *1 Guy L. R.* 3, 1999.
- Eversley, C. A. 'The Doctrine of Stare Decisis – An Enlightened Judicial Approach'. *Guyana Law Journal* 63, 1980.
- Fiadjoe, A. *Commonwealth Caribbean Public Law (3rd Edition)*. London: Cavendish, 2015.
- Liverpool, N. J. O. *The History and Development of the St. Lucia Civil Code*. Bridgetown: ISER, Cave Hill, 1983.
- Newton, V. *Commonwealth Caribbean Legal Systems: A Study of Small Jurisdictions*. Bridgetown: Triumph Publications, 1988.

WEBSITES

www.ebscohost.com

www.proquest.com

UNIT 1

MODULE 1: CARIBBEAN LEGAL SYSTEMS (cont'd)

Suggested Cases



R v Ramsonahai and Duke (1961) 3WIR535

R v George Green (1969) 14WIR204

R v Davis (1962) 4WIR375

Fraser v Greenaway (1992) 41WIR136

Forde v Law Society (1987) 40 WIR 361

Re Niles (1993) 47 WIR 38

Knüller v DPP (1973) AC A35

Mohammed v Moraine and Another (1996) 49 WIR 371

Shaw v DPP (1962) AC 220

Hyde v Hyde (1866) LR 1P&D 130

Constitutions (for relevant jurisdictions & Charter of Rights for Jamaica)

UNIT 1

MODULE 2: PRINCIPLES OF PUBLIC LAW

For the purpose of this Module the term “Public Law” refers to two areas of law, namely, Administrative and Constitutional Law.

GENERAL OBJECTIVES

On completion of this Module, students should:

1. understand the *principles of Constitutional Law*;
2. comprehend the principles of Administrative Law; and,
3. develop skills in applying principles of *Constitutional and Administrative Law to a given set of facts*.

SPECIFIC OBJECTIVES

Students should be able to:

1. distinguish between supremacy of the Constitution and Parliamentary Sovereignty;
2. outline the appointment and functions of the Head of State;
3. outline the composition of Parliament;
4. analyse the concept of the separation of powers, including the independence of the judiciary;
5. analyse the concept of the rule of law;
6. *explain the process of judicial review*;

CONTENT

Characteristics of the Constitution of any one Commonwealth Caribbean State:

Differences between the supremacy of the Constitution vs. Parliamentary Sovereignty.

The appointment and functions of the Head of State.

The composition of Parliament.

The concept of the separation of powers, including the independence of the judiciary.

The concept of the rule of law.

The Judicial Review Process:

(a) *Locus Standi*; and,

(b) *persons/bodies subject to judicial review*.

UNIT 1
MODULE 2: PRINCIPLES OF PUBLIC LAW (cont'd)

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

7. *apply the grounds of judicial review; and,*

Characteristics of the Constitution of any **one** Commonwealth Caribbean State:

Grounds for Judicial Review:

- (a) breach of one's fundamental rights;
- (b) *breach of a requirement in the statute;*
- (c) breach of principles of natural justice and legitimate expectation;
- (d) improper delegation of powers; and,
- (e) abuse of discretion.

8. *explain the remedies available for judicial review.*

Judicial review remedies

- (a) *Public law:*
 - (i) *Certiorari (quashing order);*
 - (ii) *Mandamus (mandatory order); and,*
 - (iii) *Prohibition (prohibiting order).*
- (b) *Private law:*
 - (i) *damages;*
 - (ii) *injunction; and,*
 - (iii) *declaration.*

UNIT 1

MODULE 2: PRINCIPLES OF PUBLIC LAW (cont'd)

Suggested Teaching and Learning Activities

To facilitate students' attainment of the objectives of this Module, teachers are advised to engage students in the teaching and learning activities listed below.

1. Allow students to participate in group projects and presentations based on research on different aspects of the relevant principles of public law.
2. Engage students in conducting peer evaluation of the projects on aspects of public law and presentations.
3. Assign students to produce a scrapbook of newspaper clippings and research material on aspects of public law.
4. Develop a law resource library on issues of public law, which can be added to annually.
5. Allow students to participate in moots and debates on public law issues.
6. Allow students to attend Parliamentary sittings and report on issues pertaining to the law.
7. Engage students in a Youth Parliament.
8. Visit Parliamentary websites and examine Hansard reports to conduct research on law issues.

RESOURCES

Alexis, F. *Changing Caribbean Constitutions* Bridgetown: Antilles Publications, 1987.

Fiadjoe, A. *Commonwealth Caribbean Public Law (3rd Edition)*, London: Routledge Cavendish, 2015.

Ventose, E. *Commonwealth Caribbean Administrative Law*, London: Cavendish, 2013.

The Constitution of various Caribbean countries.

Suggested Cases



Thomas v AG (1982) AC 113

Lilleyman v IRC (1964) 3 WIR 224

Collymore v AG (1967) 12 WIR5

Maharaj v AG (No 2) (1979) AC 385

Hinds v R (1977) AC 195

UNIT 1

MODULE 3: CRIMINAL LAW

GENERAL OBJECTIVES

On completion of this Module, students should:

1. understand the *various aspects of Criminal Liability*;
2. *understand the principles of Criminal Law* to solve problems in a logical and analytical way, using case material and statute where relevant; and,
3. develop skills in *applying the principles of Criminal Law to a given set of facts*.

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

- | | |
|---|---|
| 1. explain the basic principles of criminal liability; | Criminal Liability:

(a) <i>actus reus, mens rea; coincidence of actus reus and mens rea</i> ;

(b) acts, omissions, consequences and surrounding circumstances;

(c) specific intention, recklessness; crimes of negligence; strict liability; and,

(d) transferred malice. |
| 2. apply the basic principles of criminal liability to offences against the person; | Offences against the Person:

(a) murder;

(b) manslaughter: voluntary and involuntary;

(c) assault (<i>including consent as a defence</i>);

(d) <i>cruelty to children/ill-treatment and neglect of children</i> ; and,

(e) wounding. |

UNIT 1

MODULE 3: CRIMINAL LAW (cont'd)

SPECIFIC OBJECTIVES

Students should be able to:

3. apply the basic principles of criminal liability to sexual offences;
4. apply the basic principles of criminal liability to offences against property;
5. apply the basic principles of criminal liability to Inchoate offences;
6. explain *the* defences available in Criminal Law; and,

CONTENT

Sexual Offences:

- (a) *child sexual abuse*;
- (b) rape;
- (c) *buggery*; and,
- (d) incest.

Offences against Property:

- (a) theft/larceny;
- (b) robbery;
- (c) burglary; and,
- (d) criminal damage or malicious damage.

Inchoate Offences:

- (a) conspiracy;
- (b) attempt; and,
- (c) incitement.

Defences available in Criminal Law:

- (a) automatism:
 - (i) insane; and,
 - (ii) non-insane.
- (b) insanity;
- (c) diminished responsibility;

UNIT 1
MODULE 3: CRIMINAL LAW (cont'd)

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

- | | |
|--|---|
| | (d) provocation; |
| | (e) intoxication; and, |
| | (f) self-defence. |
| 7. evaluate the sentencing theories and practices in the Commonwealth Caribbean. | Sentencing:
(a) theories;
(b) types <i>and practices</i> ; and,
(c) <i>sentencing of young offenders</i> . |

Suggested Teaching and Learning Activities

To facilitate students' attainment of the objectives of this Module, teachers are advised to engage students in the teaching and learning activities listed below.

1. Assign students to critique films on related criminal law topics.
2. Allow students to participate in moots and debates on criminal law issues, for example, on whether the age of criminal responsibility should be raised.
3. Include analysis of criminal cases in scrapbooks.
4. Allow students to participate in lectures and discussions with visiting resource persons with expertise in areas of criminal law.
5. Allow students to visit criminal courts and report on observations.
6. Arrange with Court Registrar to visit the courts in session and interview personnel (for example, judge, defence counsel and prosecutor).

UNIT 1

MODULE 3: CRIMINAL LAW (cont'd)

RESOURCES

Alleyne, M.	<i>Textbook on Criminal Law. Oxford University Press (Teacher's Reference Text), 2011.</i>
Burgess, M.	<i>Protecting our Children; The Law, Policy and Procedures for Child Protection in the Caribbean.</i> New York, NY, USA; Plain Vision Publishing, 2016.
Card, R. and Molloy, J.	<i>Card, Cross and Jones: Criminal Law (22nd Edition).</i> London: Butterworths, 2016.
Dugdale, A., Furmston, M., Jones, S. and Sherrin, C.	<i>"A" Level Law.</i> London: Butterworths, 1996.
Smith, J. and Hogan, B.	<i>Criminal Law.</i> London: Butterworths, 2002. (Teachers' Text)

List of Legislation on Child Maltreatment – Offences of Cruelty to Children and Child Sexual Abuse



- S4 (1) Children's Act 2012, Trinidad and Tobago
- S5 Prevention of Cruelty to Children Act 1998, Barbados
- S232 Criminal Code of Anguilla
- S192 Criminal Code 1997 of the Virgin Islands
- S225 Penal Code (2013 Revision), Cayman Islands
- S5 Juveniles Act, Antigua and Barbuda
- S8 Juveniles Act, St Vincent and the Grenadines
- S5 Children and Young Persons Act, Dominica
- S9(4) Child Care and Protection Act, Jamaica
- S5 Children and Young Persons Act, St Lucia
- S93 Criminal Law Offences Act, Guyana

UNIT 1

MODULE 3: CRIMINAL LAW (cont'd)

WEBSITES

www.ebscohost.com

www.proquest.com

www.e-lawresources.co.uk

www.lawteacher.net

legal-dictionary.thefreedictionary.com

www.businessdictionary.com

www.britannica.com

www.lawmentor.co.uk

Suggested Cases



Woolmington v DPP (1935) AC 462

DPP v Morgan (1975) 2 All ER 347

R v Miller (1954) 2 All ER 529

R v Savage (1991) 4 All ER 698

Director of Public Prosecutions v Smith (1961) AC 290

R v Kingston (1994) Crim. LR 846

R v Brown (1993) 2 ALL ER 75 House of Lords/(1994) 1 AC 212

Director of Public Prosecutions v Majewski (1977) AC 443

Director of Public Prosecutions v Morgan (1976) AC 182

Pratt and Morgan v AG for Jamaica (1994) 2AC1

Neville Lewis et al v AG for Jamaica et al (Privy Council) [2001] 2 AC 50

Newton Spence et al v R (Privy Council) Appeals from St. Lucia and from St. Vincent and the Grenadines, 2002. Judgement of 11 November 2002

**Williams (Paul) v the State* 1999 57 WIR 380

**Braithwaite v Commissioner of Police* 1968 12 WIR 449

(*These cases are useful for the area of Sentencing)

Trimmingham v Queen (St. Vincent and the Grenadines) [2009] UKPC25

♦ UNIT 2: PRIVATE LAW

MODULE 1: LAW OF TORT

GENERAL OBJECTIVES

On completion of this Module, students should:

1. understand *Tort Law and its relationships to other areas of law*;
2. understand the various Torts; and,
3. develop skills of applying Tort Law to a given set of facts.

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

- | | |
|---|---|
| 1. outline the nature of the Law of Tort; | <p>The nature of Tort:</p> <ul style="list-style-type: none"> - definition – wrongful act, damage/injury, remedy. |
| 2. distinguish the Law of Tort from the Law of Contract, Constitutional Law and Criminal Law; | <p>Differences between the Law of Tort and:</p> <ul style="list-style-type: none"> (a) Law of Contract; (b) Constitutional Law; and, (c) Criminal Law. |
| 3. apply the principles of negligence; | <p>Negligence:</p> <ul style="list-style-type: none"> (a) duty; (b) breach; and, (c) damage: <ul style="list-style-type: none"> (i) remoteness and foreseeability; and, (ii) negligent misstatements. |

UNIT 2
MODULE 1: LAW OF TORT (cont'd)

SPECIFIC OBJECTIVES

Students should be able to:

4. *apply* the principles of defamation including defences;

5. *apply* the principles of trespass to the person;

6. *apply* the principles of nuisance;

7. *apply* the principles of liability for animals;

8. *apply* the principles of *vicarious* liability; and,

9. *apply the principles* of occupiers' liability.

CONTENT

Defamation:

- (a) elements of defamation; and,
- (b) defences to defamation – justification; fair comment; absolute privilege and qualified privilege.

Trespass to the person:

- (a) assault and battery;
- (b) false imprisonment; and,
- (c) malicious prosecution.

Nuisance:

- (a) public; and,
- (b) private.

Liability for animals.

Vicarious liability.

Occupiers' liability.

UNIT 2

MODULE 1: LAW OF TORT (cont'd)

Suggested Teaching and Learning Activities

To facilitate students' attainment of the objectives of this Module, teachers are advised to engage students in the teaching and learning activities listed below.

1. Invite guest lecturers with knowledge and experience in the Law of Tort to hold panel discussions with students on issues pertaining to the Law of Tort.
2. Allow students to interpret issues related to the Law of Tort through role play and simulated exercises.
3. Compile scrap books of selected cases related to the Law of Tort.
4. Collect newspaper reports on selected cases related to the Law of Tort.
5. Engage students in group work and group research followed by presentation to class.
6. Allow students to attend public lectures on issues related to the Law of Tort and report on major issues.

RESOURCES

Bailey, V.	CAPE® Law: Texts and Cases – Contract Law, Tort Law and Real Property. Author House Inc., 2012.
Jones, M.	<i>Textbook on Torts.</i> London: Blackstone Press, 2003.
Kodilinye, G.	<i>Commonwealth Caribbean Tort Law (5th Edition).</i> London: Cavendish, 2015.
Rogers, W.	<i>The Law of Tort.</i> London: Sweet and Maxwell, 2014. (Recommended Teachers' Text)
Caribbean Examinations Council	<i>Law: Tort, Unit 2, Module I,</i> 2003.

UNIT 2

MODULE 1: LAW OF TORT (cont'd)

Suggested Cases



Austin v AG No 1209 of 1985 (unreported), (1986) 21 Barb LR 259 (High Court, Barbados)

Robley v Placide (1966) 11 WIR 58

Campbell v Clarendon Parish Council (1982) 19 JLR 13 (Supreme Court, Jamaica)

Imperial Life Assurance Co. of Canada v Bank of Commerce (Jamaica) Ltd (1985) 22 JLR 415 (Court of Appeal, Jamaica)

Philips v Barbados Light and Power Co. Ltd. (1972) 7 Barb LR 154

Bacchus v Bacchus (1973) LRG 115

British Guiana Rice Marketing Board v Peter Taylor and Co. Ltd. (1967) 11WIR 208

Donoghue v Stevenson (1932) AC 562

Anns v Merton London Borough Council (1978) AC 728

Caparo Industries v Dickman (1990) 1 All ER 568

Blyth v Birmingham Waterworks Company (1856) 11 [1843-60] All ER Rep 478

Barnett v Chelsea & Kensington Hospital Management Committee (1969) 1 QB 428

Overseas Tankship (UK) Ltd v Morts Dock and Engineering Company Ltd (The Wagon Mound (No.1) (1961) AC 388

Wilson v Pringle (1986) 3 WLR 1

Mersey Docks & Harbour Board v Coggins & Griffith (Liverpool) Ltd (1947) AC 1

Lister v Hesley Hall Ltd (2001) 2 All E. R. 769 (HL)

UNIT 2

MODULE 2: LAW OF CONTRACT

GENERAL OBJECTIVES

On completion of this Module, students should:

1. *understand the concepts which shape the formation and development of the Law of Contract;*
2. *understand the various legal principles which underlie the Law of Contract; and,*
3. *develop skills in applying the principles of the Law of Contract to a given set of facts.*

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

- | | |
|--|---|
| 1. explain the nature of the Law of Contract; | The nature of the Law of Contract:

(a) definition of contractual obligations; and,

(b) differences from other types of legal obligations, such as tortious liability and criminal liability. |
| 2. analyse the legal rules governing formation of contracts; | The legal rules governing formation of contracts:

(a) offer and acceptance;

(b) intention to create legal relations;

(c) consideration; and,

(d) capacity (minors, insane persons). |
| 3. explain the doctrine of privity of contract; | The doctrine of privity of contract:

(a) definition, scope and application; and,

(b) common law and equitable exceptions. |

UNIT 2
MODULE 2: LAW OF CONTRACT (cont'd)

SPECIFIC OBJECTIVES

Students should be able to:

4. explain the legal rules governing contractual terms;
5. *apply the legal rules* relating to misrepresentation;
6. apply the legal rules relating to discharge; and,

CONTENT

The legal rules governing contractual terms:

- (a) express and implied terms;
- (b) conditions, warranties, intermediate or innominate terms; and,
- (c) exclusion or exemption clauses.

Misrepresentation:

- (a) definition of misrepresentation;
- (b) types of misrepresentation (fraudulent, negligent and innocent); and,
- (c) the effect of misrepresentation on a contract.

Discharge:

- (a) definition of discharge;
- (b) methods of discharge:
 - (i) agreement; and,
 - (ii) performance.
- (c) breach; and,
- (d) frustration.

UNIT 2

MODULE 2: LAW OF CONTRACT (cont'd)

SPECIFIC OBJECTIVES

CONTENT

Students should be able to:

- | | | |
|----|---|---|
| 7. | outline the effect of illegality on a contract. | <p>Illegality:</p> <p>(a) <i>Types of illegal contracts:</i></p> <p style="padding-left: 40px;">(i) <i>by statute; and,</i></p> <p style="padding-left: 40px;">(ii) <i>at common law on the grounds of public policy.</i></p> <p>(b) Effect of illegality on a contract.</p> |
|----|---|---|

Suggested Teaching and Learning Activities

To facilitate students' attainment of the objectives of this Module, teachers are advised to engage students in the teaching and learning activities listed below.

1. Invite guest speakers to lecture on issues related to the Law of Contract and engage students in group work and group research followed by presentation to class.
2. Encourage students to interpret issues related to the Law of Contract through role play and simulated exercises.
3. Develop scrapbooks on cases related to the Law of Contract.
4. Develop scrapbooks of newspaper reports on cases related to the Law of Contract.
5. Encourage students to attend public lectures on issues related to the Law of Contract and have them write reports or summarise their findings.

RESOURCES

Bailey, V.	<i>CAPE® Law: Texts and Cases – Contract Law, Tort Law and Real Property. Author House Inc., 2012.</i>
Cavendish Publishing Limited	<i>Cavendish Law Cards – Contract Law.</i> London: Cavendish Publishing Limited, 2001.
Cavendish Publishing Limited	<i>Cavendish Law Cards – A' Level Law.</i> London: Cavendish Publishing Limited, 1997.

UNIT 2

MODULE 2: LAW OF CONTRACT (cont'd)

RESOURCES (cont'd)

Chaudhary, R. et al	<i>West Indian Law of Contract</i> . Barbados: Heroco International Limited, 1995.
Eversley, C.	Contractual Freedom vs Business Fairness and Illegality. <i>Guyana Law Review</i> Vol. 1 No. 1. 41, 1999.
Poole, J.	<i>Casebook on Contract (13th Edition)</i> . Hampshire: Ashford Color Press, 2016.

Suggested Cases



Storer v Manchester City Council (1974) 3 All ER 824

Carlill v Carbolic Smoke Ball Company (1893) 1 QB 256

Gibson v Manchester City Council (1979) 1 All ER 972

Partridge v Crittenden (1968) 2 All ER 421

Pharmaceutical Society of Great Britain v Boots Cash Chemists (Southern) Ltd (1952) 2 QB 795

Entores v Miles Far East Corporation (1955) 2 All ER 493

Adams v Linsell (1818) 1 B & Ald 681

Currie v Misa (1875) LR 10 Ex 153

Pao On v Lau Yiu Long (1979) 3 All ER 65

Balfour v Balfour (1919) 2 KB 571

Derry v Peek (1889) 14 App Cas 337

Jarvis v Swan Tours Ltd (1973) 1 All ER 71

Websites

<https://www.studentlawnotes.com/>

Sixthformlaw.info

<https://www.casebriefs.com/>

UNIT 2

MODULE 3: REAL PROPERTY

GENERAL OBJECTIVES

On completion of this Module, students should:

1. understand the term 'real property';
2. understand how interests in property are acquired;
3. understand the rights and obligations of owners of real property; and,
4. develop skills in applying the principles of the Law of Real Property *to a given set of facts*.

SPECIFIC OBJECTIVES

Students should be able to:

1. explain the term 'real property';
2. *distinguish* between fixtures and chattels;

CONTENT

Real Property

- (a) Explanation of the term 'real property'.
- (b) Differences between the following terms:
 - (i) realty and personalty;
 - (ii) corporeal and incorporeal property; and,
 - (iii) moveable and immoveable property.

Fixtures and Chattels

Differences:

- (a) intention;
- (b) degree of annexation;
- (c) mode and purpose of annexation; and,
- (d) custom and usage.

UNIT 2
MODULE 3: REAL PROPERTY (cont'd)

SPECIFIC OBJECTIVES

Students should be able to:

3. *apply the principles of land ownership in any one Commonwealth Caribbean state;*

4. *distinguish between leases and licences;*

CONTENT

Land Ownership

- (a) Definition of the terms 'tenure' and 'estate'.
- (b) Description of types of estates:
 - (i) fee simple or freehold estate;
 - (ii) leasehold estate;
 - (iii) life estate; and,
 - (iv) legal and equitable interests.
- (c) Distinction between legal and equitable interests.
- (d) Concurrent interests or Co-ownership:
 - (i) the characteristics of a joint tenancy; and,
 - (ii) the characteristics of a tenancy-in-common.

Leases and Licences

- (a) The nature, acquisition and termination of the following:
 - (i) licences; and,
 - (ii) leases.
- (b) Differences between a lease and a licence.

UNIT 2
MODULE 3: REAL PROPERTY (cont'd)

SPECIFIC OBJECTIVES

Students should be able to:

5. *explain the law of easements; and,*

6. *examine the law relating to mortgages.*

CONTENT

(c) The landlord (lessor) and the tenant (lessee):

- (i) types of tenancies;
- (ii) the implied covenants of:
 - the landlord (lessor); and,
 - the tenant (lessee).

(iii) the consequences of a breach of covenant by:

- the landlord; and,
- the tenant.

Easements

- (a) characteristics of an Easement;
- (b) methods by which an Easement may be acquired:
 - (i) statute; and,
 - (ii) prescription.

(c) *Extinguishment of an Easement.*

Mortgages:

- (a) Definition of mortgage, mortgagor and mortgagee.
- (b) Rights of the mortgagor.
- (c) Rights of the mortgagee.

UNIT 2

MODULE 3: REAL PROPERTY (cont'd)

Suggested Teaching and Learning Activities

To facilitate students' attainment of the objectives of this Module, teachers are advised to engage students in the teaching and learning activities listed below.

1. Invite resource persons with knowledge and experience in Real Property to engage students in discussions.
2. Encourage students to interpret issues related to Real Property through role play and simulated activities.
3. Develop scrapbooks on cases related to Real Property.
4. Engage students in group work and group research followed by presentation to class.
5. Encourage students to conduct interviews with mortgage companies to find out major issues confronting these companies.

RESOURCES

Bailey, V. CAPE® Law: Texts and Cases – Contract Law, Tort Law and Real Property. Author House Inc., 2012.

Kodilinye, G. Commonwealth Caribbean Property Law (5th Edition). London: Cavendish, 2015.

Caribbean Examinations Council *Law: Real Property, Unit 2 Module III, 2002.*

Suggested Cases



Stanley Johnson v R. Terrier and B. Terrier [1974] 22WIR 441

Panton v Roulstone [1976] 24 WIR 462

O'Brien v Missick [1977] 1 B.L.R 40

Mitchell v Cowie [1964] 7 WIR 118

Isaac v Hôtel de Paris [1960] 1AIIER 348, [1960] 1WLR 239

Street v Mountford [1985] 2AIIER 289, [1985] 2WLR 877

Edwards v Brathwaite [1978] 32 WIR 85

Facchini v Bryson [1952] TLR 1386

Kreglinger v New Patagonia Meat and Cold Storage Co. Ltd. [1914] AC.25

◆ OUTLINE OF ASSESSMENT

Each Unit of the syllabus will be assessed separately. The same scheme of assessment will be applied to each Module in each Unit. Grades will be awarded independently for each Unit.

The assessment will comprise two components, one external and one internal. Candidates must complete the School-Based Assessment for the first Unit for which they register and write. Candidates may carry forward the School-Based Assessment mark for the first Unit written to the second Unit (irrespective of the mark earned), or may opt to complete the School-Based Assessment for the second Unit as well.

EXTERNAL ASSESSMENT FOR EACH UNIT

(80%)

Written Papers – 4 hours

Paper 01 (1 hour 30 minutes)	The paper will consist of forty-five (45) compulsory multiple-choice items. There will be fifteen (15) items based on each Module.	30%
Paper 02 (2 hours 30 minutes)	This paper will consist of <i>three</i> extended-response questions with <i>one</i> on each Module. Candidates will be required to answer <i>all THREE questions</i> .	50%

SCHOOL-BASED ASSESSMENT FOR EACH UNIT

(20%)

Paper 031

A research paper of approximately 1,500 words, (exclusive of appendices and footnotes) based on any topic covered in any of the three (3) Modules of the Unit, will be required.

Candidates who, in the same year, register for both Units of **CAPE®** Law may opt to:

- (a) submit a single School-Based Assessment for both Units;
- OR**
- (b) submit separate School-Based Assessment assignments for each Unit.



Candidates who are doing two Units of **CAPE®** Law at the same sitting and submitting a single School-Based Assessment must indicate from which Unit the School-Based Assessment was selected.

If a candidate is repeating a Unit, he or she may use the same moderated School-Based Assessment score obtained for a Unit from a previous sitting for both Units being taken at the same time.



Students must work in groups to conduct research and to submit their reports. No two group reports should be identical. The report should be approximately 1,500 words (not including appendices). Wherever a *report* exceeds the maximum length for the project by more than 10 per cent, the teacher must impose a penalty of 10 per cent of the score that the *group* achieves on the project. On the script, the teacher should clearly indicate the original score, *that is*, the score before the deduction is made, the marks which are to be deducted, and the final score *received* after the deduction has been made. Only the final score is to be indicated on the record sheets which are submitted to **CXC®**.

Paper 032

Private candidates are required to write an Alternative Paper to the School-Based Assessment – Paper 032. Details are on page 38.

MODERATION OF SCHOOL-BASED ASSESSMENT

A sample of the tasks performed in class and the outputs kept on the local electronic submission facility will be requested by **CXC**[®] for moderation purposes. These samples will be moderated by **CXC**[®] Examiners. The marks assigned by the classroom teacher may therefore be adjusted to bring them in alignment with **CXC**[®]'s standards. The Examiner's comments will be sent to schools.

Copies of students' projects that are not submitted to **CXC**[®] must be retained by the school until three months after publication of the examination results by **CXC**[®].

GUIDELINES FOR CONDUCT OF SCHOOL-BASED ASSESSMENT



School-Based Assessment is an integral part of student assessment in the course covered by this syllabus. It is intended to assist students in acquiring certain knowledge, skills and attitudes that are associated with the subject. The activities for the School-Based Assessment are linked to the syllabus and should form part of the learning activities to enable the student to achieve the objectives of the syllabus.

During the course of study for the subject, students obtain marks for the competence they develop and demonstrate in undertaking their *School-Based Assessment* assignments. These marks contribute to the final marks and grades that are awarded to students for their performance in the examination.

The guidelines provided in this syllabus for selecting appropriate tasks are intended to assist teachers and students in selecting assignments that are valid for the purpose of School-Based Assessment. The guidelines provided for the assessment of the assignments are intended to assist teachers in awarding marks that are reliable estimates of the achievement of students in the School-Based Assessment component of the course. In order to ensure that the scores awarded by teachers are consistent with the **CXC**[®] standards, the Council undertakes the moderation of a sample of the School-Based Assessment assignments from each centre.

ASSESSMENT DETAILS

External Assessment by Written Papers (80% of Total Assessment)

Paper 01 (1 hour 30 minutes – 30% of Total Assessment)

1. Composition of Paper

This paper will consist of 45 multiple-choice items. There will be 15 questions based on each Module. All questions are compulsory.

2. Syllabus Coverage

- (a) Knowledge of the entire syllabus is required.
- (b) The intention of this paper is to test candidates' knowledge across the breadth of the syllabus.

3. Question Type

Each multiple-choice *item* will test either Conceptual Knowledge or Use of Knowledge.

4. Mark Allocation

- (a) One mark will be assigned for each question.
- (b) The total number of marks available for this paper is 45, and will be weighted to 90.
- (c) This paper contributes 30 per cent towards the final assessment.

Paper 02 (2 hours 30 minutes – 50% of Total Assessment)

1. Composition of Paper

- (a) The paper will consist of *three* questions, with *one* question based on each Module.
- (b) Candidates will be required to answer *all* THREE questions.

2. Syllabus Coverage

- (a) Each question requires a greater depth of understanding than those questions in Paper 01.
- (b) Each question may assess one topic or more from the Module on which it is based.
- (c) Each question may be based on a single theme or unconnected themes.
- (d) The purpose of this paper is to test candidates' in-depth knowledge of the syllabus.

3. Question Type

- (a) A question may require a short response with an extended response *as a subpart*.
- (b) *The* questions will test both Conceptual Knowledge and Use of Knowledge.

4. Mark Allocation

- (a) Each question will be allocated 25 marks.
- (b) The maximum marks available for this paper is 75, and will be weighted to 150.
- (c) This paper contributes 50% towards the final assessment.

School-Based Assessment

A research paper of approximately 1500 words, (exclusive of appendices and footnotes) based on any topic covered in **any** of the three Modules of the Unit, will be required.



Research Paper – Paper 031

1. Requirements

The research paper presents an opportunity for students to demonstrate the accomplishment of the skills referred to on page 2 of the syllabus. Specifically, in the research paper, the *students* will be required to:

- (a) identify an issue in the community;
- (b) analyse the law relating to that issue;
- (c) apply the relevant legal principles to the issue in the community by using analytical and problem-solving skills;
- (d) demonstrate a sound understanding of the legal issues and concepts;
- (e) synthesise the legal issues and debates related to the topic being studied; and,
- (f) where appropriate, make suggestions for reform.

Primary Sources of Data

Candidates should use primary sources of data in their research activities. These include legislation, treaties and cases. Information gathered through questionnaires, and face-to-face interviews may also be used.

Secondary Sources of Data

Secondary sources of data may also be used. These may include text books, law journals, newspapers, professional law journals, law commission reports or other legal reports and documentation on cases studied.

2. The aims of the research project are to:

- (a) promote self-learning;
- (b) allow teachers the opportunity to engage in the formative assessment of their students;
- (c) allow students to enhance their understanding of the nature of law through local studies; and,
- (d) allow students to explore more fully some areas of the Unit that may not be assessed adequately in an external examination.

3. Management of the Research Paper

The *candidates* must:

- (a) write a proposal as early as possible;

- (b) prepare a timetable showing tasks to be completed during the eight-month period;
- (c) acknowledge all sources used throughout the research paper by using appropriate references using OSCOLA. See the following link for further guidance:
(https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012.pdf); and,
- (d) submit aspects of the research paper according to the timetable agreed to along with the teacher.

4. Guidance to Teachers

- (a) Advise students on the areas suitable for investigation.
- (b) Assist in the refinement of the topic. The topic must:
 - (i) fall within the scope of the Unit;
 - (ii) be related to an issue affecting the community; and,
 - (iii) must be capable of being resolved by law (either by existing law, or by law reform).
- (c) Assist students *in identifying and formulating* the aims and objectives of the *research*.
- (d) Approve research proposal and timetable for completion.
- (e) Advise students on most suitable legal resources to be used.
- (f) Devise appropriate strategies to monitor student progress during the eight-month period.
- (g) *Employ appropriate strategies to establish the authenticity of the work submitted by students. These techniques may include:*
 - *oral questioning;*
 - *in class presentations;*
 - *ongoing review of the student's work; and,*
 - *having students summarising and presenting findings from both primary and secondary sources of data.*

5. Presentation and Assessment

The research paper *should* be submitted *online and* bear the candidates' numbers, name of subject (Unit indicated) and the date submitted.

The format for the presentation of the research report and the marks for each component are given in the table below.

Section	Marks
(a) Title and table of contents	2
(b) Description of research problem/issue • Statement of the law	4
(c) Aims and objectives	4
(d) Description of methodology employed	3
(e) Presentation of Findings	4
(f) Discussion of findings — analysis of applicable legal principles/data	6
(g) Conclusions and recommendations (where appropriate)	4
(h) Referencing	3



MARK SCHEME FOR SCHOOL-BASED ASSESSMENT

Total marks awarded for the SBA report is 30. Teachers must ensure strict adherence to the guidelines stated in the following criteria for marking to guarantee reliability of the mark.

DETAILED CRITERIA AND MARK SCHEME

The candidates should be able to select and present an investigation into a specific legal issue using appropriate legal concepts, principles and theories.

ABILITIES	COMPONENT	MARKS
TITLE/TABLE OF CONTENTS		2
The candidates use table of contents to indicate the organisation of the research report.	• Title of research relates to the objectives in the syllabus and to the investigation, is clearly stated and table of contents is <i>logically laid out</i>.	2
	• <i>Title of research relates to the objectives in the syllabus and to the investigation, is clearly stated but table of contents is missing.</i>	1
	• Research is outside the scope of the syllabus but table of contents is included.	1
	• <i>Research is outside the scope of the syllabus and there is no table of contents.</i>	0

DESCRIPTION OF RESEARCH PROBLEM/ISSUE: STATEMENT OF THE LAW		4
The candidates:		
(a) select a relevant legal issue within the scope of the syllabus.	<i>The problem statement is a clearly stated guide to the research that logically and coherently connects all the different parts of the investigations, clearly indicates its importance, connects naturally to the relevant law.</i>	4
(b) narrow the topic to a problem	<i>Problem statement and relevant law are clearly stated, connection made to the research but the importance of the investigation is not obvious.</i>	3
(c) outline the law relating to the problem	<i>Problem statement and relevant law are stated but connection to the research and the importance of the investigation are not obvious.</i>	2
(d) establish the importance of investigating the problem	<i>Problem statement and relevant law are stated but there is no connection to the rest of the investigation.</i>	1
(e) propose a possible solution	<i>No attempt at a problem statement.</i>	0

AIMS AND OBJECTIVES		4
The candidates narrow the topic to clearly defined, focused aims/objectives	Aims/ objectives are relevant, clearly defined and help to focus the topic.	4
	Aims/ objectives are somewhat relevant, defined and narrow the topic.	3
	Aims/ objectives somewhat relevant not clearly defined.	2
	Aims/ objectives are not relevant.	1
DESCRIPTION OF METHODOLOGY		3
The candidates select and employ appropriate method and procedures in conducting the research.	<i>The research methodology is clearly described, realistic in its scope, and appropriate for the study.</i>	3
	<i>The research methodology appropriate for the study but is not clearly described.</i>	2
	The research design is very limited in its scope, inappropriate for the study.	1
PRESENTATION OF FINDINGS		4
The candidates have presented legal information using appropriate forms of presentation consistent with methodology used.	Findings are comprehensive, clear and accurate, and presented using forms that are appropriate to the research problem.	4
	Findings are comprehensive, clear and accurate, and forms of presentation are somewhat appropriate to the research problem.	3
	Findings are presented using forms that are somewhat appropriate to the research problem.	2
	Findings are poorly presented with several inaccuracies, and forms are mostly inappropriate.	1

DISCUSSION OF FINDINGS — ANALYSIS OF APPLICABLE LEGAL PRINCIPLES/DATA		6
The candidates: (a) interpret the findings and explain how they relate to existing body of information (b) recognise the limitations of the investigation and its impact on the findings (c) relate findings to the law and or legal theories	- Discussion is comprehensive, coherent, accounts for the findings and makes links to existing law/legal theories while outlining the impact of the limitations on the investigations. - Discussion is coherent, accounts for the findings and relates them to the law/legal theories. - Discussion accounts for the findings and relates them to the law/legal theories but lacks coherence. - Discussion is limited and is not coherent.	5-6 3-4 2 1
CONCLUSIONS AND RECOMMENDATIONS		4
The candidates present conclusions that are based on the findings and make sound recommendations.	- Conclusions are sound, plausible and based on the findings of the research. Recommendations relate to the conclusion drawn. - Conclusions are sound but are not entirely supported by the findings of the research. - Conclusions are flawed and not based on the findings of the research.	3-4 2 1
REFERENCING		3
The candidates have prepared a list and acknowledge all sources of information using an internationally accepted format.	- Referencing is consistently and accurately done and bibliography is well organised, in appropriate format and includes all relevant details - Bibliography is fairly well organised, in appropriate format and includes some relevant details - Bibliography is poorly organised, format is not appropriate	3 2 1
TOTAL		30

◆ REGULATIONS FOR PRIVATE CANDIDATES

Paper 032 (1 hour 30 minutes)

1. Composition of Paper

- (a) For each Unit, the Paper is based on the topic for that year as indicated in the table below.
- (b) There will be one compulsory question. The question may be divided into parts.
- (c) The Paper tests skills similar to those listed for the School-Based Assessment (Paper 031).

2. Question Type

- (a) The question requires candidates to respond either in the form of an extended essay or a short paragraph.
- (b) The candidates may refer to their prepared notes on the topic for that year.
- (c) The question will test both Conceptual Knowledge and Use of Knowledge.

3. Mark Allocation

The Paper is worth 30 marks (weighted to 60 marks) and contributes 20% towards the final assessment.

4. Award of Marks

Marks are awarded for expression, organisation (logical coherence) and content.



TOPICS FOR PAPER 032

YEAR	UNIT 1	UNIT 2
2018	Sentencing	Landlord and Tenants
2019	<i>Hierarchy and Appeal Process</i>	<i>Formation of Contracts</i>
2020	<i>Judicial Review</i>	<i>Negligence</i>
2021	<i>Child Sexual Abuse</i>	<i>Fixtures and Chattels</i>
2022	<i>Sexual Offences</i>	<i>Nuisance</i>
2023	<i>Sources of Law</i>	<i>Discharge of Contracts</i>
2024	<i>Child Maltreatment</i>	<i>Leases and Licences</i>
2025	<i>Judicial Review</i>	<i>Strict Liability in Tort</i>
2026	<i>Common Law and Equity</i>	<i>Misrepresentation</i>
2027	<i>Stare Decisis</i>	<i>Easements</i>
2028	<i>Legal Functionaries and Institutions</i>	<i>Fixtures and Chattels</i>
2029	<i>Judicial Review</i>	<i>Defamation</i>
2030	<i>Sentencing</i>	<i>Discharge</i>

◆ REGULATIONS FOR RESIT CANDIDATES



Resit candidates must rewrite Papers 01 and 02 of the examination for the year for which they reregister. These candidates may elect not to repeat the School-Based Assessment component provided they rewrite the examination no later than two years following their first attempt.

Candidates may reuse any moderated SBA score within a two-year period. In order to assist candidates in making decisions about whether or not to reuse a moderated SBA score, the Council will continue to indicate on the preliminary results if a candidate's moderated SBA score is less than 50 per cent in a particular Unit. Candidates reusing SBA scores should register as "Resit candidates" and must provide the previous candidate number when registering.

Resit candidates must be entered through a school, approved educational institution or the Local Registrar's office.

◆ ASSESSMENT GRID

The Assessment Grid for each Unit is indicated below, showing marks assigned to each paper, each Module, and the percentage contribution of each paper to total scores.

PAPERS	MODULES			TOTAL		(%)
	Module 1	Module 2	Module 3	Raw	Weighted	
External Assessment Paper 01 Multiple-choice (1 hour 30 minutes)	15	15	15	45	90	(30)
Paper 02 Extended-response (2 hours 30 minutes)	25	25	25	75	150	(50)
School-Based Assessment Paper 031	10	10	10	30	60	(20)
<i>Paper 032 (1 hour 30 minutes)</i>	10	10	10	30	60	(20)
TOTAL	50	50	50	150	300	(100)

◆ GLOSSARY OF LEGAL TERMS

TERM	DEFINITION/MEANING
Administrative Law	<i>The body of law that governs the activities of administrative agencies of government. Government agency action can include rulemaking, adjudication, or the enforcement of a specific regulatory agenda. Administrative law is considered a branch of public law.</i>
Arbitration	<i>The settling of disputes (especially labour disputes) between two parties by an impartial third party, whose decision the contending parties agree to accept. This is often used to resolve conflict diplomatically to prevent a more serious confrontation.</i>
Chattel	<i>An item of property other than freehold land, including tangible goods (chattels personal) and leasehold interests (chattels real). Property not affixed to real property is considered chattel property.</i>
Civil Court	<i>A court which handles legal disputes that are not crimes.</i>
Common Law	<i>Also known as judicial precedent or judge-made law or case law. It is the body of law developed by judges, courts, and similar tribunals. It is the part of English law that is derived from custom and judicial precedent rather than statutes.</i>
Constitution	<i>A body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed.</i>
Contract	<i>A written or spoken agreement, especially one concerning employment, sales, or tenancy, that is intended to be enforceable by law.</i>
Contract Law / Law of Contract	<i>The body of law that governs oral and written agreements associated with exchange of goods and services, money, and properties.</i>
Convention	<i>An agreement or compact, particularly an international agreement, such as the Geneva Convention. It is an accord between states or nations.</i>
Court of Appeal	<i>A higher state court to which appeals are made by litigants seeking review of a decision made in a lower court.</i>
Criminal Law	<i>The body of law that relates to crime. It proscribes conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people. Most criminal law is established by statute, which is to say that the laws are enacted by a legislature.</i>
Criminal Liability	<i>The liability that arises out of breaking a law or committing a criminal act.</i>
Damages	<i>Compensation for causing loss or injury through negligence or a deliberate act, or a court's estimate or award of a sum as a fine for breach of a contract or of a statutory duty.</i>

TERM	DEFINITION/MEANING
Defamation	<i>Any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person.</i>
Defence	<i>The case presented by or on behalf of the party accused of a crime or being sued in a civil lawsuit.</i>
Delegation of Powers	<i>The transfer of authority by one person or group to another person or group.</i>
Dispute Resolution	<i>Refers to one of several different processes used to resolve disputes between parties. Others include negotiation, mediation, arbitration, collaborative law, and litigation.</i>
Easement	<i>A non-possessory right to use and/or enter onto the real property of another without possessing it. It is best typified in the right of way which one landowner, A, may enjoy over the land of another, B.</i>
Estate	<i>The net worth of a person at any point in time alive or dead. It is the sum of a person's assets – legal rights, interests and entitlements to property of any kind – less all liabilities at that time. This issue is of special legal significance on a question of bankruptcy and death of the person.</i>
Equitable interest	<i>An interest held by virtue of an equitable title or claimed on equitable grounds, such as the interest held by a trust beneficiary.</i>
Family Court	<i>A court of Equity convened to decide matters and make orders in relation to family law, such as custody of children.</i>
Fixture	<i>Any physical property that is permanently attached (fixed) to real property (usually land). Fixtures are treated as a part of real property, particularly in the case of a security interest.</i>
Inchoate Offences	<i>Refers to crimes which have not yet been completed. These offences are concerned with the planning process of a criminal offence which may not even come to fruition, but there is sufficient conduct that is blameworthy and needs to be addressed under the criminal law. The main offence is not yet committed and may not be committed at all.</i>
Injunction	<i>An equitable remedy in the form of a court order that compels a party to do or refrain from specific acts. A party that fails to comply with an injunction faces criminal or civil penalties, including possible monetary sanctions and even imprisonment. They can also be charged with contempt of court.</i>
Judicial	<i>Pertaining to judgment in courts of justice or to the administration of justice.</i>

TERM	DEFINITION/MEANING
Judicial Process	Refers to the rules of procedural law that consist of both hearing and determining cases in criminal proceedings, civil lawsuits or administrative proceedings by constitutional courts. A set of interrelated procedures and roles for deciding disputes by an authoritative person or persons whose decisions are regularly obeyed. The disputes are to be decided according to a previously agreed upon set of procedures and in conformity with prescribed rules.
Judicial System	Pertaining to courts of law or to judges. This includes procedures and functions.
Jury System	A system in which the verdict in a legal case is decided by a jury on the basis of evidence submitted to it in court.
Juvenile Court	Also known as Young Offender's Court . It is a tribunal having special authority to pass judgements for crimes that are committed by children or adolescents who have not attained the age of majority.
Law	The system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.
Lease	A contract by which one party conveys land, property, services, etc. to another for a specified time, usually in return for a periodic payment.
Legal interest	Something a law recognizes, as in an advantage, profit, right, or share. A legal title is an example.
Legal System	Refers to a procedure or process for interpreting and enforcing the law. It elaborates the rights and responsibilities in a variety of ways. Three major legal systems of the world consist of civil law, common law and religious law.
Liability	A comprehensive legal term that describes the condition of being actually or potentially subject to a legal obligation.
Licence	An official permission or permit to do, use, or own something. The document of that permission or permit.
Magistrates' Court	A court which has limited jurisdiction over minor civil and criminal matters, as matters of contract not exceeding a particular amount of money.
Mediation	A form of alternative dispute resolution (ADR) in which the parties to a lawsuit meet with a neutral third-party in an effort to settle the case. The third-party is called a mediator.
Mortgage	A legal agreement by which a bank, building society, or other authorised agency lends money at interest in exchange for taking title of the debtor's property, with the condition that the conveyance of title becomes void upon the payment of the debt.

TERM	DEFINITION/MEANING
Natural Justice	<i>In English law, it is technical terminology for the rule against bias and the right to a fair hearing.</i>
Negligence	<i>A failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances. The behaviour usually consists of actions, but can also consist of omissions when there is some duty to act.</i>
Nuisance	<i>In English law it is an area of tort law broadly divided into two torts; private nuisance, where the actions of the defendant are "causing a substantial and unreasonable interference with a claimant's land or his/her use or enjoyment of that land", and public nuisance where the defendant's actions "materially affects the reasonable comfort and convenience of life of a class of Her Majesty's subjects".</i>
Offences against the person	<i>Usually refers to a crime which is committed by direct physical harm or force being applied to another person. They are usually analysed by division into the following categories: Fatal offences and Sexual offences.</i>
Offences against Property	<i>A category of crime that includes burglary, motor vehicle theft, theft, arson, vandalism and shoplifting. It involves the taking of property or money and does not include a threat of force or use of force against the victim.</i>
Ombudsman	<i>A legal representative, often appointed by a government or organization to investigate complaints made by individuals in the interest of the citizens or employees. Usually this is a state official appointed to oversee an investigation of complaints about improper government activity against citizens.</i>
Precedent	<i>In legal systems based on common law, a precedent, or authority, is a principle or rule established in a previous legal case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts.</i>
Private Law	<i>That part of a civil legal system which focuses on relationships between individuals, such as the laws of contracts, torts, and obligations.</i>
Privy Council	<i>A body that advises the head of state of a nation, typically, but not always, in the context of a monarchic government.</i>
Public Law	<i>That part of law which governs relationships between individuals and the government, and those relationships between individuals which are of direct concern to society. Public law comprises constitutional law, administrative law, tax law, criminal law, and procedural law. In public law, mandatory rules prevail.</i>
Rule of Law	<i>The legal principle that law should govern a nation, as opposed to being governed by decisions of individual government officials. It implies that every person is subject to the law, including people who are lawmakers, law enforcement officials, and judges.</i>
Sentence	<i>The punishment assigned to a defendant found guilty by a court, or fixed by law for a particular offence. (noun) Declare the punishment decided for an offender. (verb)</i>

TERM	DEFINITION/MEANING
Separation of Powers	<i>A system in which the powers of the government are divided among three separate but interrelated branches: the legislative, the executive, and the judiciary branch. Each branch is independent, has a separate function, and may not usurp the functions of the other. Their relationship allows for a system of checks and balances to operate effectively.</i>
Sexual Offences	<i>A class of sexual conduct prohibited by the law.</i>
Statute	<i>A formal law or rule. Whether it is enacted by a government, company, or other organization, a statute is typically written down.</i>
Supreme Court	<i>The highest judicial court in a country or state.</i>
Tenancy	<i>A contract by which the owner of real property (the landlord), grants exclusive possession of that real property to another person (tenant), in exchange for the tenant's periodic payment of some sum of money (rent).</i>
Tenure	<i>A right, term, or mode of holding or occupying something of value for a period of time.</i>
Tort	<i>An act or omission that gives rise to injury or harm to another and amounts to a civil wrong for which courts impose liability.</i>
Trespass	<i>The act of knowingly entering another person's property without permission. Such action is held to infringe upon a property owner's legal right to enjoy the benefits of ownership.</i>
Warranty	<i>Refers to a guarantee or promise which provides assurance by one party to the other party that specific facts or conditions are true or will happen.</i>

◆ GLOSSARY OF TERMS USED IN THE LAW EXAMINATION

KEY TO ABBREVIATIONS

UK – Use of Knowledge

CK – Conceptual Knowledge

WORD	DEFINITION/MEANING
Analyse	<i>Examine methodically and in detail the elements of a scenario, a law, etc. and then draw (a) conclusion(s).</i>
Apply	<i>Use knowledge and or principles of law to resolve a legal situation. This will require making references or drawing conclusions</i>
Assess	Present reasons for the importance of particular structures, relationships or processes. <i>This involves comparing the advantages and disadvantages or the merits and demerits of a particular structure, relationship or process to determine relative value</i>
Cite	<i>Provide an example of a case, a quotation or a reference.</i>
Classify	<i>Divide into groups according to observable characteristics.</i>
Comment	<i>State opinion or view with supporting reasons.</i>
Compare	<i>State, describe and elaborate on the similarities and differences.</i>
Deduce	Make a logical connection between two or more pieces of information; use data to arrive at a conclusion.
Define	<i>Provide a precise statement giving the nature or the scope or the meaning of a term; or use the term in one or more sentences so that the meaning is clear and precise.</i>
Describe	Provide detailed information on the appearance or arrangement of a specific structure or sequence of a specific process. Description may be done by using words, drawings or diagrams or an appropriate combination. Drawings or diagrams should be annotated to show appropriate detail where necessary.
Develop	Expand or elaborate an idea or argument with supporting reasons.

WORD	DEFINITION/MEANING
Differentiate or Distinguish	State or explain briefly those differences between or among items which can be used to define the items or place them into separate categories.
Discuss	<i>Write an extended answer defining key concepts, stating what is, exploring related concepts and issues, present reasoned arguments for and against, using detailed examples but not necessarily drawing a conclusion.</i>
Evaluate	Weigh evidence and make judgements based on given criteria. The use of logical supporting reasons for a particular point is more important than view held; usually both sides of an argument should be considered.
Examine	<i>Write an extended answer defining key concepts, stating what is and exploring related concepts and issues.</i>
Explain	<i>Provide statements on what happened, how it happened and why it happened. Provide elaboration of particular terms, concepts, approaches.</i>
Give/State	<i>Provide short, concise statements.</i>
Identify	Name specific components or features. <i>Point out, indicate without explanation or recognise and select.</i>
Interpret	Explain the meaning of.
Justify	<i>Explain the correctness of/give reasons for the selection of.</i>
Outline	<i>Provide main points, or features only without details.</i>
Suggest	<i>Offer an explanation deduced from information provided or previous knowledge and consistent with subject knowledge.</i>

Western Zone Office
7 October 2025

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LAW

Specimen Papers and Mark Schemes/Keys

Specimen Papers, Mark Schemes and Key:

Unit 1 Paper 01
Unit 1 Paper 02
Unit 1 Paper 032
Unit 2 Paper 01
Unit 2 Paper 02
Unit 2 Paper 032



SPEC 2017/02131010

CANDIDATE – PLEASE NOTE!

PRINT your name on the line below and return this booklet with your answer sheet. Failure to do so may result in disqualification.

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CARIBBEAN ADVANCED PROFICIENCY EXAMINATION®**

LAW

Unit 1 – PUBLIC LAW

Paper 01

SPECIMEN PAPER

1 hour 30 minutes

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This test consists of 45 items. You will have 1 hour and 30 minutes to answer them.
2. In addition to this test booklet, you should have an answer sheet.
3. Do not be concerned that the answer sheet provides spaces for more answers than there are items in this test.
4. Each item in this test has four suggested answers lettered (A), (B), (C), (D). Read each item you are about to answer and decide which choice is best.
5. On your answer sheet, find the number which corresponds to your item and shade the space having the same letter as the answer you have chosen. Look at the sample item below.

Sample Item

The term '*stare decisis*' means

- (A) reason for deciding
- (B) let the decision stand
- (C) through a lack of care
- (D) offhand comments by a judge

Sample Answer



The best answer to this item is "let the decision stand", so (B) has been shaded.

6. If you want to change your answer, erase it completely before you fill in your new choice.
7. When you are told to begin, turn the page and work as quickly and as carefully as you can. If you cannot answer an item, go on to the next one. You may return to that item later.

DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO.

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1. It is true to say that natural law
 - (A) is similar to morality and Christianity
 - (B) is a command of the sovereign that must be obeyed
 - (C) is an instrument of social control and public order
 - (D) must conform to an acceptable code of moral behaviour
2. Which of the following BEST describes literary sources of law?
 - (A) Reception of law
 - (B) Location of the law
 - (C) Basis of the law's validity
 - (D) Causative factors behind a rule
3. Primary legislation refers to legislation
 - (A) made by a government authority
 - (B) proposed by the Governor General
 - (C) created by parliament as part of its inherent function
 - (D) arising from bodies which have independent authority
4. The Judicature Acts of 1873 and 1875 fused law and
 - (A) equity
 - (B) custom
 - (C) morality
 - (D) judicial precedent
5. Which of the following is NOT a maxim of equity?
 - (A) Equity is equality.
 - (B) Delay defeats equity.
 - (C) He who comes to equity must come with clean hands.
 - (D) Equity was created to ease the harshness of the common law.
6. Which of the following was traditionally the only remedy available under the common law?
 - (A) Damages
 - (B) Injunction
 - (C) Rectification
 - (D) Specific Performance
7. What is the MAIN difference between the High Court and the Magistrates' Court?
 - (A) Appeals are heard by the High Court.
 - (B) Three magistrates need to sit to hear a single case in the Magistrates' Court.
 - (C) The Magistrates' Court is superior to the High Court.
 - (D) Cases in the High Court are primarily tried by a judge and jury.
8. Which of the following are reasons a person may be discharged from jury service?
 - I. Illness
 - II. Criminal record
 - III. Ignorance of legal terms
 - (A) I and II only
 - (B) I and III only
 - (C) II and III only
 - (D) I, II and III
9. John and James recently had an intense argument in which John asserted, "I bought this property from the government a long time ago. It is mine."

The area of law in which John's action will be pursued is

 - (A) public
 - (B) private
 - (C) criminal
 - (D) constitutional

GO ON TO THE NEXT PAGE

10. A policeman gives a traffic ticket to Miss Benjamin, a lawyer. Miss Benjamin feels that she is being unfairly treated and vows to 'have her day in court'. In which of the following jurisdictions is the action most likely to commence?
- (A) Privy Council
 - (B) Court of Appeal
 - (C) Magistrates' Court
 - (D) Caribbean Court of Justice
11. Zinga, a victim of domestic violence for 25 years, is charged for killing her abusive husband by putting poison in his food. Which of the following describes the nature of Zinga's case?
- (A) Civil
 - (B) Criminal
 - (C) Procedural
 - (D) Substantive
12. The judge in sentencing the defendant said to him, "Be careful of your associates." There was no evidence, however, that the defendant's association with these persons affected the judgement in the case.
- The judge's statement may be described as
- (A) *stare decisis*
 - (B) *obiter dictum*
 - (C) *ratio decidendi*
 - (D) judicial precedent
13. John, who is before the court on a charge of murder, discloses to his attorney that he had committed the crime. His attorney becomes very perplexed and is not certain what to do. The attorney's first duty is to
- (A) himself
 - (B) his client
 - (C) the court
 - (D) the prosecution
14. Which of the following are features of delegated authorities?
- I. Flexibility in the court system
 - II. Special knowledge from experts
 - III. Greater autonomy to administrative units
- (A) I and II only
 - (B) I and III only
 - (C) II and III only
 - (D) I, II and III
15. John and Mary are going through a divorce. They are both seeking custody of their two children, Maria and Jim. They are meeting with an independent third party who is assisting them with the settlement.
- They are both engaged in the process of
- (A) litigation
 - (B) mediation
 - (C) arbitration
 - (D) rehabilitation
16. The fundamental rights of an individual are enshrined in
- (A) a contract
 - (B) the Constitution
 - (C) judicial precedent
 - (D) acts of Parliament

GO ON TO THE NEXT PAGE

17. Two ways in which the independence of the judiciary is guaranteed are that judges are
- (A) paid out of a Consolidated fund and are only to be dismissed on three main grounds
 - (B) allowed to work independently of the chief justice and to remain on the bench indefinitely
 - (C) allowed to conduct their courts in any manner they see fit and to personally select their support staff
 - (D) empowered to rule on any case no matter how controversial their decision may be, and to hand down any sentence they wish
18. Constitutional law refers to the law governing the relationship between
- (A) contracting parties
 - (B) government agencies
 - (C) the state and another state
 - (D) the state and the individual
19. What is the essential meaning of the doctrine of separation of powers?
- (A) The government should separate itself from tyranny and the abuse of power.
 - (B) No person or public authority should exceed the powers conferred upon him by law.
 - (C) The executive, the legislative and the judiciary each has a clearly defined and distinct role.
 - (D) Everyone is equal in the eyes of the law, and everyone should enjoy fundamental rights.
20. An independent judiciary is indispensable for the protection of the right to
- (A) a fair hearing
 - (B) a speedy trial
 - (C) legal redress
 - (D) the presumption of innocence
21. Which of the following is a principle of the rule of law?
- (A) Let the decision stand.
 - (B) No one is above the law.
 - (C) Supremacy of Parliament.
 - (D) Individuals should govern themselves.
22. *Ultra vires* refers to an
- (A) act by any government official
 - (B) act done by a competent authority
 - (C) illegal act but done for the common good
 - (D) administrative act without legal authority
23. Which of the following prerogative orders is used to compel the performance of a public duty by a public authority?
- (A) Prohibition
 - (B) *Certiorari*
 - (C) *Mandamus*
 - (D) *Habeas corpus*

GO ON TO THE NEXT PAGE

24. The Broadcasting Authority, a public body, decides to indict its finance manager on charges of corruption. Which of the following rules should the authority observe if the dismissal is to be deemed lawful?
- I. Give reasons for the decision.
 - II. Consider the manager's ability to get another job.
 - III. Ensure that the cause is judged by independent persons.
- (A) I and II only
 - (B) I and III only
 - (C) II and III only
 - (D) I, II and III
25. The police, acting on a tip, takes Cain into custody and forces him to make a confession. Cain requests the presence of an attorney but his request is denied.
- The police infringes Cain's fundamental right to
- (A) protection of the law
 - (B) freedom of expression
 - (C) freedom of association
 - (D) freedom of conscience
26. Bert feels correctly that he has been dismissed because of his religious persuasion. He decides to bring an action against his former employers for breach of his constitutional rights. Bringing this action is
- (A) not in Bert's favour because there is no constitutional right to a job
 - (B) not in Bert's favour because his constitutional rights depend on the state action doctrine
 - (C) in Bert's favour because his constitutional right to freedom of religion has been infringed
 - (D) in Bert's favour because his constitutional right to freedom from decimation has been infringed
27. The head of state refuses to appoint a Senator, nominated by the prime minister. He argues that the people, in a general election, rejected this individual. The decision of the head of state is
- (A) *ultra vires*
 - (B) unchallengeable in law
 - (C) contrary to natural justice
 - (D) violative of the separation of powers
28. Which of the following is NOT a ground for judicial review?
- (A) A breach of a defendant's right to a fair hearing
 - (B) Delegate has wrongfully delegated a power given to him
 - (C) Defendant is dissatisfied with a custodial sentence imposed on him by a judge
 - (D) Magistrate imposes a sentence that exceeds the provision for the offence in the statute
29. The fire service has, for the past 20 years, given study leave to junior officers to pursue an associate degree. Alex, a fire officer, applies for study leave to pursue an associate degree but is refused by the chief fire officer.
- On what grounds may Alex challenge this decision?
- (A) Illegality
 - (B) Irrationality
 - (C) Breach of natural justice
 - (D) Breach of legitimate expectation

GO ON TO THE NEXT PAGE

30. Mr Justly, a Court of Appeal judge, has decided to run for political office. His friend who is also a judge advises him that he cannot continue to function as a judge while being a political figure. Which of the following issues is now confronting Mr Justly?
- (A) Corruption of politics
(B) Parliamentary sovereignty
(C) Separation of powers doctrine
(D) Limitation of the justice system
31. Which of the following criminal offences does NOT require a *mens rea* to be present?
- (A) Sexual
(B) Summary
(C) Indictable
(D) Strict liability
32. Recklessness occurs where the defendant
- (A) blames a third party
(B) believes there is no danger
(C) considers the dangers to others
(D) shuts his mind to the possibility of danger
33. In the law relating to rape, a man is guilty where he has sexual intercourse with a woman and
- I. is reckless as to whether or not she consents
II. she consents
III. he reasonably believes she is consenting
- (A) I only
(B) I and II only
(C) I and III only
(D) I, II and III
34. Which of the following offences involves stealing accompanied by violence?
- (A) Larceny
(B) Robbery
(C) Burglary
(D) Criminal damage
35. Inchoate offences refer to those offences that
- (A) are incomplete
(B) are of a strict liability
(C) are punishable by death
(D) require more than one person
36. The MOST appropriate defence applicable where the accused killed the victim due to a sudden and temporary loss of self-control is
- (A) provocation
(B) automatism
(C) spontaneous insanity
(D) diminished responsibility
37. The theory of retribution endorses as a penalty for the crime of murder
- (A) life imprisonment
(B) capital punishment
(C) hard labour in prison
(D) imposition of a heavy fine
38. Which of the following is a theory of sentencing?
- (A) Rehabilitating the offender
(B) Appeasing victims' families
(C) Considering the plea in mitigation
(D) Reflecting adequately the revulsion of the prosecutor

GO ON TO THE NEXT PAGE

39. Doman entices Paral to buy a car that he claims is free from encumbrances. Paral later finds out that the car is mortgaged to a financial company. Doman was charged with obtaining money by false pretences. Later, it was discovered that the document was void in law as an unregistered bill of sale.
- On which of the following grounds would a court be inclined to quash Doman's conviction?
- (A) *Mens rea* but no *actus reus* was established.
 - (B) *Actus reus* but no *mens rea* was established.
 - (C) No *mens rea* or *actus reus* was established.
 - (D) *Mens rea* was established but there was an omission.
40. Trevor, a pickpocket, reaches into Tracey's pocket to steal her purse. He changes his mind after pulling the purse to the edge of her pocket. Tracey realizes what happened and calls the police. For which of the following offences is Trevor likely to be charged?
- (A) Larceny
 - (B) Attempt
 - (C) Robbery
 - (D) Burglary
41. An assault is different from a battery in that in an assault
- (A) the accused uses unlawful physical contact and insults the victim
 - (B) the accused approaches the victim in a hostile manner and there is a fight
 - (C) there is no unlawful physical contact, but there is a mutual trading of taunts and threats
 - (D) the victim is put in fear of an imminent battery, but there is no physical contact by the defendant
42. Which of the following is correct?
- Adolphe is guilty of murder where
- (A) he announces that he is going to poison Juan but Juan is already dead
 - (B) Juan learns that Adolphe wants to poison him and he dies from a heart attack
 - (C) he keeps the poison at home from where Marcus steals it and poisons Betty, who dies
 - (D) he leaves a glass of milk, laced with poison, for Juan to drink but Marcus drinks it instead and dies

GO ON TO THE NEXT PAGE

43. Which of the following cases results in burglary?
- (A) Albert breaks a window and climbs up a ladder to Aggie's house but changes his mind when he hears the police siren.
 - (B) Donald enters his neighbour's house, believing he had entered his own house, and gives Robert his neighbour's ming vase.
 - (C) Mary expects her boyfriend Keith to enter her bedroom through the window. In error, she invites Paul, whom she saw outside, and he steals her jewellery.
 - (D) Tom mistakenly enters his neighbour's house and, upon discovering the mistake, steals a painting and leaves.
44. Brian shoots Marlon in the chest. Marlon had a prevailing heart condition which speeds up his death. Brian claims he is not liable for Marlon's death. Brian is
- (A) only liable for wounding Marlon
 - (B) not liable since Marlon had a heart condition
 - (C) not liable for the death since he lacks *mens rea*
 - (D) liable for the death since he must take the victim as he finds him
45. Which of the following is a case of incitement?
- (A) X and Y plan to steal from A's purse.
 - (B) X lends Y a gun to kill A. A is already dead.
 - (C) X and Y receive a painting from A unaware that it was stolen.
 - (D) X gives Y poison to kill A but the poison is insufficient to kill anyone.

END OF TEST

IF YOU FINISH BEFORE TIME IS CALLED, CHECK YOUR WORK ON THIS TEST.

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SUBJECT: CAPE LAW – UNIT 1 – PAPER 01

PROFICIENCY: ADVANCED

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FULL NAME: _____
(BLOCK LETTERS)

Signature: _____

Date: _____

2. Ensure that this slip is detached by the Supervisor or Invigilator and given to you when you hand in this booklet.
3. Keep it in a safe place until you have received your results.

INSTRUCTION TO SUPERVISOR/INVIGILATOR:

Sign the declaration below, detach this slip and hand it to the candidate as his/her receipt for this booklet collected by you.

I hereby acknowledge receipt of the candidate's booklet for the examination stated above.

Signature: _____
Supervisor/Invigilator

Date: _____

LAW

UNIT 1 PAPER 01

ANSWER SHEET

Item Number	Answer Key	Spec. Obj.	Cog. Level	Item Number	Answer Key	Spec. Obj.	Cog. Level
1	D	1.1 (a)	CK	27	A	2.7 (d)	UK
2	B	1.2 (a)	CK	28	C	2.7 (c)	UK
3	C	1.2 (b)	CK	29	D	2.7	UK
4	A	1.2 (d)	CK	30	B	2.7 (a)	UK
5	D	1.2 (d)	CK	31	D	3.1 (a)	CK
6	A	1.2 (c)	CK	32	D	3.1 (c)	CK
7	D	1.4 (b)	CK	33	C	3.3 (a)	CK
8	D	1.4 (c)	CK	34	B	3.4 (b)	CK
9	B	1.2 (a)	UK	35	A	3.5	CK
10	C	1.4 (c)	UK	36	A	3.6 (d)	CK
11	B	1.4	UK	37	B	3.7 (a)	CK
12	B	1.5	UK	38	A	3.7 (a)	CK
13	C	1.5 (a)	UK	39	A	3.4	UK
14	C	1.5	UK	40	B	3.1 (a)	UK
15	B	1.6	UK	41	D	3.2 (c)	UK
16	B	2.1	CK	42	D	3.2 (a)	UK
17	A	2.1 (a)	CK	43	C	3.4 (c)	UK
18	D	2.4	CK	44	A	3.4 (c)	UK
19	C	2.4	CK	45	D	3.5 (c)	UK
20	A	2.5	CK				
21	B	2.5	CK				
22	D	2.7 (d)	CK				
23	C	2.8 (a)	CK				
24	B	1.6 (b)	UK				
25	A	2.7 (a)	UK				
26	C	2.7 (a)	UK				

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SUBJECT

LAW – UNIT 1 – Paper 02

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NAME OF SCHOOL/CENTRE

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LAW

PUBLIC LAW

UNIT 1 – Paper 02

SPECIMEN PAPER

2 hours 30 minutes

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This paper consists of THREE questions, ONE question based on EACH module. Answer ALL questions.
2. Write your answers in the spaces provided in this booklet.
3. Do NOT write in the margins.
4. If you need to rewrite an answer and there is not enough space to do so on the original page, you must use the extra lined page(s) provided at the back of this booklet. **Remember to draw a line through your original answer.**
5. **If you use the extra page(s) you MUST write the question number clearly in the box provided at the top of the extra page(s) and, where relevant, include the question part beside the answer.**

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SECTION A

MODULE 1: CARIBBEAN LEGAL SYSTEMS

This question is compulsory.

1. During jury selection, the prosecutor learns the following about the jurors:

- Barney has spent five years in prison.
- Sandie, a housewife, applies for exemption because she has the flu.

Two days into the trial, Justice King learns of the recent divorce between Kerwyn a juror, and Ann, the defendant.

- (a) Outline the reason why Justice King could dismiss Kerwyn as a juror.

[2 marks]

- (b)(i) Explain whether the following persons could be disqualified from serving on the jury in a named Commonwealth Caribbean state.

- Barney
- Sandie

[4 marks]

- (ii) Outline TWO disadvantages of a trial by jury.

[4 marks]

- (c) Assess FOUR benefits of a trial by jury as against a trial by a single judge.

[15 marks]

Total 25 marks

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SECTION B

MODULE 2: PRINCIPLES OF PUBLIC LAW

The question is compulsory.

2. (a) Explain briefly TWO features of the doctrine of separation of powers. [4 marks]
- (b) Describe THREE methods in which the constitution of a named Commonwealth Caribbean country enshrines the separation of powers doctrine. [6 marks]
- (c) Parliament passes the Child Court Act. The judges of the Child Court are to have the same powers of a High Court judge. In accordance with Section 104 of the Constitution, High Court judges are appointed by the Judicial Legal Services Commission. Section 15 of the Child Court Act provides that Judges of the Child Court are to be appointed by the Minister for Justice. Justice Brown, a Child Court Judge who is appointed by the Minister for Justice, convicts Jane of an offence.
- With reference to TWO decided cases or examples, advise Jane whether Section 15 of the Child Court Act is unconstitutional.

[15 marks]

Total 25 marks

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Use the lines provided on pages 11-15 to write your answer. You may continue your answer on pages 22-26 if you need more lines.

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SECTION C

MODULE 3: CRIMINAL LAW

This question is compulsory.

3. (a) (i) Define the term 'murder'. [2 marks]
- (ii) Explain briefly ONE element of the *mens rea* for murder. [2 marks]
- (b) Identify TWO instances where a person might be found guilty of involuntary manslaughter. Give an example of ONE decided case for each instance. [6 marks]
- (c) John is frustrated with his girlfriend, Tina, who constantly nags him. One evening, John beats Tina severely after her usual nagging. Tina dies as a result of the beating.
- (i) Explain whether John is liable for the death of Tina. In your answer, give ONE decided case as an example.
- (ii) What defence, if any, may be available to John. In your answer, give ONE decided case as an example.

[15 marks]

Total 25 marks

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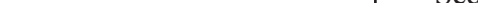
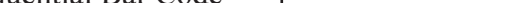
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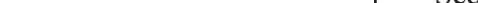
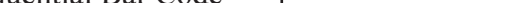



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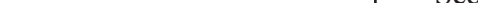
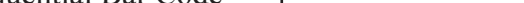
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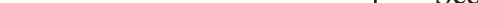
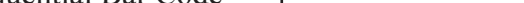
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CANDIDATE'S RECEIPT

INSTRUCTIONS TO CANDIDATE:

1. Fill in all the information requested clearly in capital letters.

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SUBJECT: LAW – UNIT 1 – Paper 02

PROFICIENCY: ADVANCED

REGISTRATION NUMBER:

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FULL NAME: _____
(BLOCK LETTERS)

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2. Ensure that this slip is detached by the Supervisor or Invigilator and given to you when you hand in this booklet.
3. Keep it in a safe place until you have received your results.

INSTRUCTION TO SUPERVISOR/INVIGILATOR:

Sign the declaration below, detach this slip and hand it to the candidate as his/her receipt for this booklet collected by you.

I hereby acknowledge receipt of the candidate's booklet for the examination stated above.

Signature: _____
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Date: _____

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C A R I B B E A N E X A M I N A T I O N S C O U N C I L

ADVANCED PROFICIENCY EXAMINATION

LAW

SPECIMEN PAPER

UNIT 1 - PAPER 02

MARK SCHEME

CAPE LAW UNIT 1**PAPER 02****MODULE 1 – CARIBBEAN LEGAL SYSTEMS****Key and Mark Scheme****Specific Objective: 5 (b)**

- (a) Legal principles
 Personal relationship between Kerwyn and Ann – recently divorced
 – may result in bias

Clear explanation 2 marks**[2 marks]****Partial explanation 1 mark**

- (b) (i) Whether the following persons could be disqualified from serving on the jury

Barney

o Jamaica

- awaiting or committed for trial for an indictable offence
- conviction for treason
- imprisonment for more than six months

o Antigua and Barbuda

- conviction for an indictable offence

o Barbados

- conviction for any misdemeanour or felony for which they have been sentenced to imprisonment
- conviction for any arrestable offence

o Trinidad and Tobago

- conviction for an arrestable offence
- conviction for crimes involving dishonesty

o Guyana

- conviction for crimes involving dishonesty
- imprisonment for more than six months

Whether Sandie can be disqualified

- Serious medical condition: The juror is currently suffering from such a condition which would inhibit the ability to serve.
- Flu – depends on whether it is serious medical condition so as to affect her performance
- Effect of flu on the performance (In Antigua and Barbuda, the judge has discretion)

For each person – clear explanation of one reason 2 marks each**[4 marks]****Partial explanation 1 mark**

(ii) **Disadvantages of trial by jury**

- Persons on a jury do not generally have a legal background.
- Jurors have their own personal biases which can affect the outcome of the case
- Vetting of jurors and not random selection
- It is likely that jurors are manipulated by interested parties

Any other plausible response

Any two disadvantages clearly outlined 2 marks each

One mark for partial response

[4 marks]

[10 marks]

(c) **Advantages/benefits of the jury system**

	Trial by jury	Trial by single judge
1.	Personal bias The size of the jury means it is unlikely that individual prejudices could significantly affect the verdict.	A judge may have a personal bias against the defendant which may influence the outcome of the trial and result in an unfair verdict.
2.	Values of the community The verdict in a jury trial may more accurately reflect the views of the community and society as the jury is taken from a sample of members of the public.	A single judge may be out of touch with the views of regular society, and his/her decision may not reflect the values of the community as a whole.
3.	Perception of fairness and justice The common man may feel he gets the kind of justice that he thinks is fair since he is judged by his own peers. Thus the verdict is more likely to be accepted by the defendant and the community.	The community may feel that the verdict is unfair since the judge as a legal expert may be out of touch with the social reality of the common man.
4.	Lack of legal training and experience of jurors allows them to bring a fresh outlook to the trial.	Judge may be hardened and cynical after years of legal training and experience.
5.	Trial by jury helps to maintain public confidence and trust in the justice system as society is ready to accept the decision which comes from its own group.	The people are not willing to accept a doubtful decision made by a single judge.
6.	The jury brings the whole power of the citizenry to bear upon the administration of justice.	The power of the citizenry is removed from the administration of justice.

- **Any other relevant point**

Any four points clearly explained with comparison 3 marks each

[12 marks]

Any four points clearly explained without comparison 2 marks each

Weak explanation 1 mark each

Coherence

[3 marks]

[15 marks]

Total 25 marks

SECTION B
MODULE 2 – PUBLIC LAW

Question 2**Specific Objective: 4**

(a) Features of the separation of powers:

- The separate functions of the executive, the legislature and the judiciary
- The existence of an independent and impartial judiciary
- The protection of judicial powers and jurisdiction from usurpation by the executive and the legislature

Clear outline of any two relevant features 2 marks each

[4 marks]

Weak explanation 1 mark each

(b) Methods of enshrining:

- The existence of a chapter on the judiciary in the constitution: the existence of an independent and impartial judiciary and on the protection of its powers and jurisdiction from usurpation by the executive or legislature.
- The appointment, discipline and removal of judges are made by an independent judicial and legal services commission.
- The salaries of judges are drawn from the consolidated fund.
- Judges cannot be removed from office except for incapacity or misconduct.
- Elaborate process for removal of a judge by an independent tribunal which can recommend to the Court the removal of a judge.

Clear explanation of any three methods 2 marks each

[6 marks]

Weak explanation of methods 1 mark each

[4 marks]

[10 marks]

(c) Problem question:

- Issue: Whether Section 15 of the Child Court Act is unconstitutional for violating the separation of powers doctrine

Clear statement of issue 2 marks

Weak statement of issue 1 mark

[2 marks]

- Law: Privy Council in *Hinds v. R* 1977 A.C. 195, which establishes the Doctrine of Separation of Powers seemingly as a general constitutional principle of the Commonwealth Caribbean constitutions, but in practical substantive

terms in respect to the judiciary as against the other arms of the state.

Held: "The principle of Separation of Powers was implicit in the Constitution, and Parliament had no power to transfer from the Judiciary to the Review Board, the majority of whose members were not qualified to exercise judicial powers, a discretion to determine the severity of punishment to be inflicted on an individual member of a class of offenders, and accordingly, the provisions of ss.8 and 22 of the Gun Court Act were contrary to the constitution and void and the sentences passed on the defendant unlawful."

Law: *Astaphan v. Controller of Customs* 1966 (Court of Appeal of Dominica)

Section 6 of the Dominica protects individuals from compulsory acquisition of his property without constitutional authority. The appellant was required to pay sums in excess of estimated duties on goods being cleared from customs.

Separation of powers

Issue: Whether Legislature of Dominica delegated or transferred its legislative power of taxation to the Executive by authorities to demand a tax or duty under s.27(4) of the Customs (Control and Management) Act

Held: Section 27 (4) inconsistent with basic principle of separation of powers and therefore unconstitutional and void to that extent. It further sums that in nature of a penalty this was a judicial power or discretion which could not legislatively be transferred to the Executive.

Clear application of each of two laws 2 marks each [4 marks]

Partial application 1 mark

Clear explanation of each case or example 2 marks each

[4 marks]

Application and Conclusion

- Therefore a judge of the Child Court must be appointed by the Judicial Legal Services Commission and not the Minister of Justice.
- Section 15 of the Child Court Act is unconstitutional because it vests the power of appointment of a High Court Judge in the Ministry of Justice, a member of the Executive and Legislature rather than to the independent Judicial Legal Services Commission.

Application and Conclusion

[2 marks]

Coherence

[3 marks]

[15 marks]

SECTION C

MODULE 3 - CRIMINAL LAW

Question 3**Specific Objective: 2 (a)**

(a)

(i) Definition

Murder is the unlawful killing of another human being with malice aforethought during the Queen's peace.

Definition to include reference to any two key elements underlined [2 marks]

(ii) Elements for *mens rea*

- Intent to kill is the desire to take or end the life of another human being in circumstances where there is an absence of lawful justification. The person dies as a result of the action of the defendant.
- Or intending to cause grievous bodily harm

[2 marks]

(b) Instances of person found guilty of manslaughter

- Manslaughter by unlawful and dangerous act - pointing of loaded gun at any person - *R v. Lamb* (1967); throwing a good size box overboard - *R v. Franklin* (1883); rolling a stone/dropping concrete slabs - *Handcock and Shankland* (1985)
- Manslaughter by negligence - existence of a legal duty, breach of that duty and damage resulting from the said breach - *R v. Adomako* (1993)
- Manslaughter by recklessness - D kills by an act knowing that it was highly probable that the act would cause serious injury and/or death or shuts his mind to the issue of whether such harm would be caused - *Hyam v. DPP* 1975; *Moloney v. DPP* 1985

Any two points clearly explained 2 marks each**[4 marks]****Weak explanation 1 mark each****Any two relevant cases cited 1 mark each****[2 marks]****[6 marks]**

(c) (i) Issue - whether he may be liable for the death of Tina

- *Actus reus* - Willed voluntary movement is where the defendant does an action that he intends to do in order to bring about the desired result.
- *Mens rea* - The intention to kill or cause grievous bodily harm

- Coincidence of *actus reus* or *mens rea* - whether the defendant having the intention to kill or cause grievous bodily harm does an action to bring about the death or harm of Tina

Cases:

R v. Maloney 1985

*R v. Lamb**

Any two points clearly explained 2 marks each [4 marks]
Weak explanation 1 mark
Any relevant example given 1 mark

(ii) John may raise the defence of provocation

- Definition of provocation - Provocation is an act or series of acts, done by the deceased to the accused which would cause in a reasonable man and has actually caused in the accused a sudden and temporary loss of self-control rendering the accused so subject to passion as to make him or her for the moment not the master of his mind - *R v. Duffy* 1949.
- Elements of provocation
 - o Sudden and temporary loss of self-control - Instantaneity of the attack and the absence of time to cool off and regain one's self control
 - o Reasonableness of defendant's conduct - Whether the defendant reacted reasonably to the provocation, that is, in a manner that a reasonable man would have - *R v. Phillips*; *R v. Doughty* 1986.

Any two points clearly explained 2 marks each [4 marks]
Weak explanation 1 mark
Any relevant example given 1 mark

Application and Conclusion

- Where it is determined that provocation has been successfully raised, John's conviction for murder would be reduced to voluntary manslaughter.
- Where it is determined that provocation cannot be successfully raised as a result of his conduct being unreasonable and excessive, he would be convicted for murder.

Application and Conclusion [2 marks]
Coherence [3 marks]

[15 marks]

Total 25 marks

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SUBJECT

LAW – UNIT 1 – Paper 032

PROFICIENCY

ADVANCED

REGISTRATION NUMBER

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SCHOOL/CENTRE NUMBER

NAME OF SCHOOL/CENTRE

CANDIDATE'S FULL NAME (FIRST, MIDDLE, LAST)

DATE OF BIRTH

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LAW

PUBLIC LAW

UNIT 1 – Paper 032

SPECIMEN PAPER

1 hour 30 minutes

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This paper consists of ONE compulsory question.
2. Read the question carefully before you begin writing your response.
3. You may refer to your prepared notes on the topic to be assessed.
4. Write your responses in the answer booklet provided.

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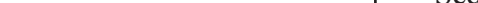
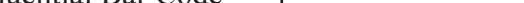
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Answer this compulsory question.

- (b) Protection from deprivation of property **[15 marks]**

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SUBJECT: LAW – UNIT 1 – Paper 032

PROFICIENCY: ADVANCED

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C A R I B B E A N E X A M I N A T I O N S C O U N C I L

CARIBBEAN ADVANCED PROFICIENCY EXAMINATIONS®

LAW

UNIT 1 Paper 032

KEY AND MARK SCHEME

MAY/JUNE 2017

LAW
UNIT 1 Paper 032
KEY AND MARK SCHEME

FUNDAMENTAL RIGHTS

Protection of the law

- Referred to as a fair trial or the right to due process
- Regulates the conduct of fair trials
- The emphasis is in criminal trials

1. Right to a fair hearing

"If a person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a **fair hearing**" - section 18(1) of the Constitution (BDS).

Maharaj v. Attorney General: person must be given particulars of charge and an opportunity to respond to those charges before punishment

2. Trial within a reasonable time

"If a person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing, **within a reasonable time**" - section 18(1) of the Constitution (BDS)

Bell v. DPP - 32 months was an unreasonable time in the appellant's case, which was a retrial.

3. Details of offence charged:

"Every person who is charged with a criminal offence shall be informed as soon as is reasonably practicable, in a language that he understands and in details, of the nature of the offence charged" section 8(2) of the Constitution (DCA)

Amerally & Bentham v. R - no offence was disclosed by the charge.

4. Legal Representation

"Every person who is charged with a criminal offence, shall be permitted to defend himself in person or by a legal representative of his own choice - section 18(2) of the Constitution (BDS)

Hinds v. AG of Barbados: since the appellant was represented on appeal he could not argue that his right to a fair hearing was breached by the denial of legal aid at the trial

Two points clearly stated in definition	2 marks
Three points clearly explained	6 marks
Conclusion	2 marks

Weak explanation	1 mark each
Three cases clearly cited	3 marks
Coherence	2 marks

Total 15 marks

LAW
UNIT 1 Paper 032
KEY AND MARK SCHEME

Protection from deprivation of property

- No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except by or under the authority of a written law
- Acquisition or taking of possession
 - o must be made by a written law
 - o must prescribe the principles on which and the manner in which compensation therefore is to be determined and given
 - o must give to any person claiming such compensation a right of access, either directly or by way of appeal, for the determination of his interest in or right over the property and the amount of compensation, to the High Court

Personal Property

Property includes personal possessions for example, money, debts and other tangibles

AG v Caterpillar: money is property

Salary and Employment Benefits

AG v. Lawrence: L was managing director of bank. Was removed from office. Entitled to profit. Contractual arrangements form of property protected.

Civil Servants Salaries

King v. AG of Barbados: public servant had no right to a minimum salary and no property protected.

Any other point

Two points clearly stated in definition	2 marks
Three points clearly explained 2 marks each up to a Conclusion	6 marks
Weak explanation 1 mark each	2 marks
Three cases clearly cited 1 mark each	3 marks
Coherence	2 marks

[15 marks]
Total 30 marks

LAW
UNIT 1 Paper 032
KEY AND MARK SCHEME

Level	Criteria	Score
1	A logical, well-developed response; demonstrates excellent understanding of cases and issues, consistently cites relevant sources to support answer	27-30
2	A logical, well-developed response, demonstrates very good understanding of cases and issues, usually cites relevant sources to support answer	23-26
3	A logical, fairly well developed response; demonstrates good understanding of cases and issues, usually cites relevant sources to support answer	19-22
4	Satisfactory logic and development shown in response; demonstrates satisfactory understanding of cases and issues, occasionally cites relevant sources to support answer	15-18
5	Acceptable logic and development shown in response; demonstrates acceptable understanding of cases and issues, occasionally cites relevant sources to support answer	11-14
6	Weak logic and limited development shown in response; demonstrates poor understanding of cases and issues, rarely cites relevant sources to support answer	7-10
7	Unsatisfactory logic and minimal development shown in response; demonstrates unsatisfactory understanding of cases and issues, very rarely cites relevant sources to support answer	1-6



CANDIDATE – PLEASE NOTE!

PRINT your name on the line below and return your booklet with the answer sheet. Failure to do so may result in disqualification.

TEST CODE **02231010**

SPEC 2017/02231010

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LAW

Unit 2 – PRIVATE LAW

Paper 01

SPECIMEN PAPER

1 hour 30 minutes

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This test consists of 45 items. You will have 1 hour and 30 minutes to answer them.
2. In addition to this test booklet, you should have an answer sheet.
3. Do not be concerned that the answer sheet provides spaces for more answers than there are items in this test.
4. Each item in this test has four suggested answers lettered (A), (B), (C), (D). Read each item you are about to answer and decide which choice is best.
5. On your answer sheet, find the number which corresponds to your item and shade the space having the same letter as the answer you have chosen. Look at the sample item below.

Sample Item

Browne owns five acres of land. He rents it to Felix for 99 years.
Felix now holds

- (A) a life interest
- (B) a freehold estate
- (C) a leasehold estate
- (D) an equitable interest

Sample Answer



The best answer to this item is “a leasehold estate”, so (C) has been shaded.

6. If you want to change your answer, erase it completely before you fill in your new choice.
7. When you are told to begin, turn the page and work as quickly and as carefully as you can. If you cannot answer an item, go on to the next one. You may return to that item later.

DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO.

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1. A defamatory statement is one that
 - (A) was made in a heated argument
 - (B) was written about someone
 - (C) tends to lower a person in the estimation of his friends
 - (D) tends to lower a person in the estimation of right-thinking persons
2. Which of the following is NOT a defence for defamation?
 - (A) Truth
 - (B) Free speech
 - (C) Fair comment
 - (D) Absolute privilege
3. Which of the following are sources of libel?
 - I. Photographs
 - II. E-mails
 - III. Gestures
 - (A) I and II only
 - (B) I and III only
 - (C) II and III only
 - (D) I, II and III
4. For a person to be found liable for battery, there must be
 - (A) unlawful physical contact
 - (B) consent to physical contact
 - (C) personal injury to the victim
 - (D) a threat of violence by the tortfeasor
5. Which of the following statements is correct with regard to an action for false imprisonment?
 - (A) It is not actionable per se.
 - (B) The defendant must justify the restraint.
 - (C) The defendant must show he had no reasonable cause to detain the plaintiff.
 - (D) The defendant is liable where the plaintiff knows that the defendant had him detained
6. Which of the following is NOT a true statement in private nuisance?
 - (A) The plaintiff must have an interest in land.
 - (B) The plaintiff can recover damages for personal injury.
 - (C) The defendant's conduct must have been unreasonable.
 - (D) The interference to land must be substantial for a successful action.
7. The term 'particular damage' is usually associated with the law of
 - (A) assault
 - (B) negligence
 - (C) public nuisance
 - (D) private nuisance
8. Which of the following provides a defence to an occupier for injuries sustained by a lawful visitor on the occupier's premises?
 - (A) Trespassing
 - (B) *Ex turpi causa*
 - (C) Inadequate warnings
 - (D) *Volenti non fit injuria*

GO ON TO THE NEXT PAGE

9. Boat Builders Ltd owned a boat that has been abandoned for two years. Gregory, who is 13 years old, was injured when the boat fell on him as he tried to repair it.

Which of the following is the legal position of Boat Builders?

- (A) Not liable for the injury of Gregory
- (B) Liable based on the doctrine of *res ipsa loquitur*
- (C) Liable because the accident was reasonably foreseeable
- (D) Not liable because the accident was reasonably foreseeable

Items 10-11 relate to the following scenario.

Joe was driving towards town when his vehicle skidded, mounted the pavement and collided with Mary Brown who was walking along the pavement. Mary Brown is taken to the General Hospital where she dies two days later. An autopsy reveals that she dies from an overdose of antibiotics which were administered to her by various nurses at the General Hospital.

10. Mary Brown's personal representatives can bring an action against Joe in the tort of

- (A) assault
- (B) negligence
- (C) recklessness
- (D) manslaughter

11. What concept in tort can Joe adequately advance to absolve him from liability for the death?

- (A) *Non est factum*
- (B) *Res ipsa loquitur*
- (C) *Volenti non fit injuria*
- (D) *Novus actus interveniens*

12. Ellie receives a text message from Tom that her goddaughter, Mandy, was in a terrible accident and had to be hospitalized. Ellie faints and falls breaking her wrist. Later she learns that Ron's dangerous driving caused the accident involving Mandy.

Which of the following options is available to Ellie?

- (A) She can succeed in an action against Ron for nervous shock
- (B) As Mandy's godmother Ellie qualifies as a foreseeable plaintiff
- (C) She cannot succeed in an action against Ron for nervous shock
- (D) Her position is not affected by Mandy being her goddaughter and not her daughter

13. Slander is actionable per se where the defamatory statement

- I. imputes incompetence of a doctor
- II. suggests that a married woman is adulterous
- III. causes the plaintiff to be shunned from a social group

- (A) I and II only
- (B) I and III only
- (C) II and III only
- (D) I, II and III

14. D says to E, "If you do not leave my daughter alone, I will shoot you." Which of the following BEST states the legal position?

- (A) D commits an assault on E because E is in fear of D.
- (B) D does not commit an assault on E because E is bigger than D.
- (C) D commits an assault on E because E does not intend to leave D's daughter alone.
- (D) D does not commit an assault on E because there is no immediacy about D's threat.

GO ON TO THE NEXT PAGE

15. Which of the following is NOT an employer's duty at common law?
- (A) A safe place of work
 - (B) Adequate plant and equipment
 - (C) A workplace that is totally free from any danger
 - (D) A safe system of working with effective supervision
16. Contractual obligation arises from a duty primarily fixed by
- (A) law
 - (B) statute
 - (C) agreement
 - (D) judicial revision
17. Which of the following is NOT a type of contract?
- (A) Bilateral
 - (B) Voidable
 - (C) Unilateral
 - (D) Fundamental
18. Which of the following conditions creates incapacity to form certain contracts?
- (A) Hunger
 - (B) Old age
 - (C) Drunkenness
 - (D) Age of maturity
19. Consideration in a contract is BEST defined as
- (A) being party to a contract
 - (B) the acceptance of an offer
 - (C) the capacity to make a contract
 - (D) the price for which a promise is bought
20. A fraudulent misrepresentation is one that is
- (A) careless
 - (B) innocent
 - (C) dishonest
 - (D) thoughtless
21. The effect of misrepresentation on a contract is BEST described as rendering the contract
- (A) illegal
 - (B) voidable
 - (C) discharged
 - (D) *void ab initio*
22. Which of the following is a legal binding contract?
- (A) A defendant bribing a juror
 - (B) A customer purchasing controlled drugs
 - (C) A store supplying a bed to a prostitute
 - (D) A citizen paying to receive a national honour
23. Under which of the following conditions can the discharge of a contract occur?
- (A) Capacity
 - (B) Illegality
 - (C) Agreement
 - (D) Misrepresentation
24. Which of the following agreements represents a contract where the parties intended to be legally bound?
- (A) Aaron offers \$100 000 to any man who will marry his daughter.
 - (B) Craig promises to pay \$40 000 for a car to be supplied by Elizabeth.
 - (C) Dennis promises to pay his wife a monthly allowance while he is away.
 - (D) Billy promises Garry a part of the petrol cost in return for a ride to work each morning.

GO ON TO THE NEXT PAGE

25. A father promises his 18-year-old son a gold watch if the boy does not smoke until he turns 21. The boy complies. The father does not. The legal result is that there is
- (A) no agreement between the parties
 - (B) a breach of contract by the father
 - (C) no privity of contract between the parties
 - (D) an agreement which is unenforceable by the son
26. Harry is 15 years old but looks much older. He goes into James' barbershop, gets a haircut and then refuses to pay on the grounds that he is 'underage'. James can succeed in a case against Harry because
- (A) the contract is one for necessities
 - (B) the contract is not for the sale of goods
 - (C) Harry was a minor at the time of the contract
 - (D) there was no reason to believe Harry was a minor
27. Ancil Ltd enters into the lease of a gold-mine for 20 years with Bilton Ltd. After 12 years, Ancil Ltd realizes that it had entered into the agreement as a result of misrepresentation by Bilton Ltd. There has been considerable extraction of gold and other minerals from the mine. Ancil Ltd. CANNOT claim rescission because
- (A) there is a lapse of time
 - (B) there is an impossible restitution
 - (C) there is an affirmation of contract important
 - (D) third party rights have intervened
28. Jane agrees with Ken to sing a solo at Ken's wedding reception on Sunday. On Thursday, Jane gets soaked in a downpour but, instead of changing her wet clothes, she sits in a draught. Jane contracts laryngitis, and is unable to sing at the reception. When Ken sues Jane, she can
- (A) rely on the doctrine of illegality
 - (B) plead frustration of the agreement
 - (C) plead a lack of consideration on Ken's part
 - (D) offer no lawful excuse for her non-performance
29. Alf promises Bob that he, Alf, will pay \$50 to Carl if Bob mows Alf's lawn. Bob mows the lawn. Alf now refuses to pay Carl. Which of the following is correct?
- (A) Alf is not in breach of contract.
 - (B) Carl can sue Alf for breach of contract.
 - (C) Carl can sue Bob for breach of contract.
 - (D) Carl cannot sue Alf for breach of contract.
30. Which of the following is the BEST describes the effect of illegality on a contract?
- (A) Valid and enforceable
 - (B) Enforceable but voidable at the option of either party
 - (C) Unenforceable but property transferred may be recovered
 - (D) Unenforceable and property transferred cannot be recovered

GO ON TO THE NEXT PAGE

31. A legal interest in land differs from an equitable interest in that a legal interest is
- (A) a right in personam
 - (B) formed without legal formalities
 - (C) a right binding on the whole world
 - (D) not as strong as an equitable interest
32. When does the equitable right to redeem occur?
- (A) When the mortgage is created
 - (B) When the mortgage is concluded
 - (C) Any time before the contractual redemption date
 - (D) After the contractual redemption date has passed
33. The doctrine of survivorship applies where the title deed for the ownership of the property states that Raul and Sharon are tenants holding the property
- (A) in common
 - (B) in equal shares
 - (C) in joint ownership
 - (D) to share and share alike
34. The term 'ownership of real property' refers to
- (A) rights in *rem*
 - (B) choses in action
 - (C) movable property
 - (D) corporeal property
35. Which of the following statements is true of a licensee?
- (A) He can assign his licence.
 - (B) He has an interest in the land.
 - (C) He does not enjoy exclusive possession.
 - (D) He can enforce his rights over property.
36. Where a person is granted, by deed, the right to enter land in order to enjoy the right to take growing timber, his interest in the land is equivalent to a
- (A) lease
 - (B) bare licence
 - (C) contractual licence
 - (D) licence coupled with interest
37. Which of the following is an essential characteristic of an easement?
- (A) There is a dominant tenement only.
 - (B) The right is the subject matter of a grant.
 - (C) There is consideration by the servient tenement.
 - (D) There is no accommodation for the dominant tenement.
38. The interest of the landlord of a demised premises whilst the tenant is in possession is called
- (A) a reversionary
 - (B) a legal interest
 - (C) an equitable interest
 - (D) a proprietary interest
39. Thompson leases a bond to Jackman who operates a printery. Jackman builds a concrete platform that is pinned to the ground by steel. Upon this platform, Jackman rests his printing press. At the end of the lease, Thompson wants Jackman to leave the printing press. The printing press can be classified as a
- (A) fixture
 - (B) chattel
 - (C) corporeal
 - (D) chose in action

GO ON TO THE NEXT PAGE

40. Broome holds the fee simple in Daxacres. He wishes to change his fee simple to a life estate for himself with remainder to his sons, Felix and Austin. Which of the following is true of the life estate Broome would hold?
- (A) Felix and Austin hold the remainder interest for Broome.
 - (B) Felix holds a life interest for Austin with remainder to Broome.
 - (C) Felix and Austin both hold a life interest with remainder to Broome.
 - (D) Felix and Austin are lessees of Broome for the term of their natural lives.
41. Tom owns a house at Macaio. Jerry leases the house from Tom for a period of five months at a specified rent. At the expiration of the five months, Tom allows Jerry to remain in the house. Jerry does not pay any rent. What type of tenancy is created after the expiration of the five months?
- (A) Tenancy-at-will
 - (B) Periodic tenancy
 - (C) Tenancy by estoppel
 - (D) Tenancy at sufferance
42. Dan owns land that is next to St Ann's Street. Peter is the owner and occupier of the land adjoining Dan's. Dan has allowed Peter to walk over his land for the past 25 years to go to and from St Ann's Street. Peter is said to have acquired
- (A) a lease
 - (B) a licence
 - (C) a covenant
 - (D) an easement
43. J, K, L and M own the Orange Acre property as joint tenants. M dies due to old age. Two weeks later J, K and L advertise the Orange Acre property for sale. How will the proceeds of the sale be legally apportioned?
- (A) J, K and L will each receive one-third.
 - (B) J, K and L will each receive one-quarter.
 - (C) M's share passes to his estate, the balance is shared equally among J, K and L.
 - (D) M's share passes to his next of kin, the balance is shared equally among J, K and L.

GO ON TO THE NEXT PAGE

44. Don mortgages his property to Commercial Inc. for the sum of \$20 000. Which of the following remedies would be available to Commercial Inc. should Don default on the loan?
- I. Power of foreclosing on the property
 - II. Right to take possession
 - III. Right to sue Don
- (A) I and II only
 - (B) I and III only
 - (C) II and III only
 - (D) I, II and III
45. A clog on the equity of redemption means that the mortgagee CANNOT
- (A) reserve the right to purchase the mortgaged property
 - (B) reserve benefits after the mortgagor has redeemed the mortgaged property
 - (C) be allowed to restrict the mortgagor's right to redeem the mortgaged property
 - (D) enter into an agreement with the mortgagor to become owner on the death of the mortgagor

END OF TEST

IF YOU FINISH BEFORE TIME IS CALLED, CHECK YOUR WORK ON THIS TEST.

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CANDIDATE'S RECEIPT

INSTRUCTIONS TO CANDIDATE:

1. Fill in all the information requested clearly in capital letters.

TEST CODE:

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SUBJECT: CAPE LAW – UNIT 2 – PAPER 01

PROFICIENCY: ADVANCED

REGISTRATION NUMBER:

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FULL NAME: _____
(BLOCK LETTERS)

Signature: _____

Date: _____

2. Ensure that this slip is detached by the Supervisor or Invigilator and given to you when you hand in this booklet.
3. Keep it in a safe place until you have received your results.

INSTRUCTION TO SUPERVISOR/INVIGILATOR:

Sign the declaration below, detach this slip and hand it to the candidate as his/her receipt for this booklet collected by you.

I hereby acknowledge receipt of the candidate's booklet for the examination stated above.

Signature: _____
Supervisor/Invigilator

Date: _____

LAW

UNIT 2 PAPER 01

ANSWER SHEET

Item Number	Answer Key	Spec. Obj.	Cog Level	Item Number	Answer Key	Spec. Obj.	Cog Level
1	D	1.4 (a)	CK	26	D	2.2 (d)	UK
2	B	1.4 (a)	CK	27	B	2.5 (c)	UK
3	A	1.4 (b)	CK	28	B	2.6 (b)	UK
4	A	1.5 (a)	CK	29	D	2.6 (c)	UK
5	D	1.5 (b)	CK	30	C	2.4	UK
6	B	1.5 (a)	CK	31	C	3.3 (b)	CK
7	C	1.6 (a)	CK	32	D	3.3 (d)	CK
8	D	1.9	CK	33	C	3.3 (d)	CK
9	C	1.3 (c)	UK	34	A	3.3 (a)	CK
10	B	1.3 (a)	UK	35	C	3.4 (a)	CK
11	D	1.3 (b)	UK	36	C	3.4 (a)	CK
12	C	1.3 (c)	UK	37	B	3.5 (a)	CK
13	A	1.4 (b)	UK	38	A	3.6 (a)	CK
14	D	1.5 (a)	UK	39	B	3.2 (a)	UK
15	C	1.8	UK	40	A	3.3 (b)	UK
16	C	2.1	CK	41	A	3.3 (d)	UK
17	D	2.1 (b)	CK	42	D	3.3 (d)	UK
18	C	2.2 (d)	CK	43	A	3.3 (d)	UK
19	D	2.2 (c)	CK	44	B	3.6 (b)	UK
20	C	2.5 (b)	CK	45	A	3.6 (b)	UK
21	B	2.5 (c)	CK				
22	C	2.7 (a)	CK				
23	C	2.6 (b)	CK				
24	B	2.2 (b)	UK				
25	A	2.2 (b)	UK				

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SUBJECT

LAW – UNIT 2 – Paper 02

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NAME OF SCHOOL/CENTRE

CANDIDATE’S FULL NAME (FIRST, MIDDLE, LAST)

DATE OF BIRTH

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PRIVATE LAW

SPECIMEN PAPER

UNIT 2 – Paper 02

2 hours 30 minutes

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This paper consists of THREE questions, ONE question based on EACH module. Answer ALL questions.
2. Write your answers in the spaces provided in this booklet.
3. Do NOT write in the margins.
4. If you need to rewrite an answer and there is not enough space to do so on the original page, you must use the extra lined page(s) provided at the back of this booklet. **Remember to draw a line through your original answer.**
5. **If you use the extra page(s) you MUST write the question number clearly in the box provided at the top of the extra page(s) and, where relevant, include the question part beside the answer.**

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SECTION A

MODULE 1: LAW OF TORT

This question is compulsory.

1. John bought a house in a very quiet part of town called Greenland Park and lives there with his mother, Janet. Last summer, the house next door was sold and the new owner, Chingtung Restaurant, hires a band which plays loud music every night into the wee hours of the morning. Several complaints made to the restaurant owner have been ignored. Janet and John approach you for legal advice regarding this problem.

- (a) (i) Identify the tort relevant to this question. Give ONE reason for your answer.

[3 marks]

- (ii) Who can bring the action in tort? Give ONE reason for your answer supported by ONE decided case.

[3 marks]

- (b) Identify TWO parties that can be sued in this action. Give ONE reason for EACH of the TWO parties in your answer.

[4 marks]

- (c) With reference to TWO decided cases, advise Janet and John on THREE factors that the court would take into consideration in determining liability in this matter.

[15 marks]

Total 25 marks

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SECTION B

MODULE 2: LAW OF CONTRACT

The question is compulsory.

2. (a) (i) State ONE presumption of an intention to create legal relations. Refer to ONE decided case in your answer. [2 marks]
- (ii) Explain briefly ONE principle emerging from *Carlill v. Carbolic Smoke Ball Co.* [2 marks]
- (b) Explain TWO methods by which a term can be implied into a contract. Use ONE decided case to support your answer for EACH method. [6 marks]
- (c) Meg is contracted by Telco Ltd to sing at its Christmas concert. She is paid half of the fee, the balance to be paid after the concert. Meg cannot sing on the evening of the concert because she is very hoarse.
- Explain to Telco the basis upon which Meg may be discharged from the contract. Refer to THREE decided cases to support your answer. [15 marks]

Total 25 marks

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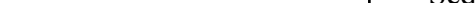
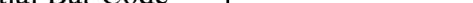
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SECTION C

MODULE 3: REAL PROPERTY

This question is compulsory.

3. (a) Briefly explain any TWO distinguishing features of a 'bare licence'.

[4 marks]

- (b) (i) Give a brief explanation of ONE implied covenant of a landlord.
(ii) List TWO examples of a breach of the named covenant.

[6 marks]

- (c) Mr Maraje has five acres of land in Hibiscus Park. He gives Sunil permission to maintain the land and grow crops on it. Mr Maraje promises him (Sunil) a piece of the land in return for his services. Based on Mr Maraje's promise Sunil builds a house on the land and has been planting and maintaining the land for eight years when a dispute arises between them. Mr Maraje gives Sunil notice to vacate the premises within one month. Sunil refuses to leave, claiming that he is entitled to an interest in the property. Sunil wishes to sue Mr Maraje for possession and retains you as his attorney.

Using TWO decided cases to illustrate your answer, explain to Sunil whether he can succeed in a claim for an interest in Mr Maraje's property.

[15 marks]

Total 25 marks

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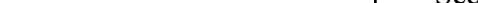
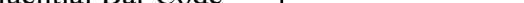
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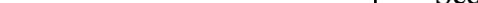
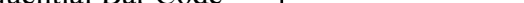



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SUBJECT: LAW – UNIT 2 – Paper 02

PROFICIENCY: ADVANCED

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Supervisor/Invigilator

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C A R I B B E A N E X A M I N A T I O N S C O U N C I L

ADVANCED PROFICIENCY EXAMINATION

LAW

SPECIMEN PAPER

UNIT 1 - PAPER 02

MARK SCHEME

CAPE LAW UNIT 2
PAPER 02
SECTION A
MODULE 1 - LAW OF TORT
Key and Mark Scheme

Question 1

Specific Objective: 5

(a) Candidates are expected to discuss the following:

- (i) The tort is nuisance as Chingtung Restaurant is causing an unreasonable interference of John and his mother's use or enjoyment of the house due to the noise from the band playing at nights.

1 mark for response

2 marks for clear explanation

1 mark for partial explanation

[3 marks]

- (ii) John – landowner/tenant/occupier can sue.
 Since nuisance is concerned with a person's use or enjoyment of land only persons with an interest in land can sue. In this case John is the person who bought the land, therefore he is the owner and has interest so he can sue.

Cases

Malone v. Laskey (1907)

Hunter v. Canary Wharf (1995)

Sheppard v. Griffith (1973)

1 mark for identifying John

1 mark for reason

1 mark for the case

[3 marks]

(a) The parties that can be sued
 Any person who creates a nuisance can be sued regardless of whether that person owns or occupies the land from which the nuisance comes – Southport Corporation

- (i) Chingtung Restaurant can be sued as owner.

- The occupier of the land where the nuisance exists is liable when he creates the nuisance. In this case, Chingtung Restaurant can be sued.

Chingtung Restaurant can be sued as occupier.

- The occupier may also be vicariously liable where his employee creates a nuisance in the course of employment. In this case, the band is the employee (contracted) of Chingtung Restaurant so Chingtung is vicariously responsible for its action.

- The occupier may also be liable for the nuisance created by his independent contractor where the occupier could have reasonably foreseen, from the instructions which he gave to the independent contractor, that a nuisance was likely to occur - *Bower v. Peat* (1876)
- The occupier may also be liable where the nuisance is created by a trespasser on his land or where it was created by an act of nature once he know or ought to have known of the risk of the nuisance occurring and did nothing to prevent it - *Sedleigh-Denfield v. O'Callaghan* (1940).

(ii) The band may be sued as the creator of the nuisance.

- Any person who creates a nuisance can be sued regardless of whether that person owns or occupies the land from which the nuisance comes - *Southport Corporation*.

Any two persons identified with clear reason 2 marks each

[4 marks]

Any two points partially explained 1 mark each

[2 marks]

(b) Issue: Whether the interference was unreasonable
To determine liability of the defendant for unreasonable interference the court will consider the following factors:

▪ **Substantial interference**

Not all interference gives rise to liability. In order to strike a balance between the right of the defendant to use his land as he wishes and the right of the plaintiff to be protected from interference with his enjoyment of his land, the plaintiff must prove substantial interference with the enjoyment of land.

▪ **Duration of the interference**

The interference must be continuous over a period of time; the shorter the duration of the interference the less likely it is to be found unreasonable. A mere temporary inconvenience, for example, noise or dust from a demolition of building work on the defendant's land may not be unreasonable. A permanent inconvenience such as noise and smoke from the defendant's factory is more likely to be held to be unreasonable and therefore actionable.

▪ **Sensitivity of the plaintiff**

If the plaintiff suffered damage only because he or his property was abnormally delicate or sensitive, and he would not otherwise have been harmed, the defendant would not be liable in nuisance. The law expects a person to conform

to a reasonable standard of conduct not to some unusually high standard which the plaintiff seeks to impose.

▪ **Character of the neighbourhood**

The nature of the neighbourhood where the acts complained of have occurred may be taken into account in cases of interference with enjoyment of land *Bamford v. Turnley*, but not in cases of physical injury to property *St. Helen's Smelting Co. v. Tipping*. 'What would be a nuisance in Belgrave Square would not necessarily be so in Bermondsey' *Sturges v. Bridgman*.

▪ **The utility of the defendant's conduct**

In general, the court will not rule in favour of the defendant merely because he shows that his conduct was beneficial or useful to the community for that would compel the plaintiff to bear the burden alone of an activity from which many others will benefit – *Adams v. Ursell*.

▪ **The Defendant's malice**

Malice will refute reasonableness – *Christie v. Davey*. Where the defendant carried on his activity with the sole or main purpose of causing harm or annoyance to the plaintiff this is a factor that will be taken into account in deciding whether his conduct is reasonable. Malice here means 'spite', 'ill-will' or 'evil motive' *Hollywood Silver Fox Farm Ltd v. Emmett*.

Cases

Walter v. Selfe

Vanderpant v. Mayfair Hotel Co. Ltd

De Keyser's Royal Hotel v. Spicer Bros. Ltd

Harrison v. Southwark & Vauxhall Water Co.

Bolton v. Stone

Midwood v. Mayor of Manchester

Robinson v. Kilvert

Clear explanation of any three relevant factors 2 marks each

[6 marks]

Weak explanation 1 mark each.

Any two cases/examples clearly explained 2 marks each **[4 marks]**

Application and conclusion **[2 marks]**

Coherence **[3 marks]**

[15 marks]

Total 25 marks

SECTION B
MODULE 2 - LAW OF CONTRACT

Question 2

Specific Objectives: 2 (b), 4 (a), 6

- (a) (i) Presumptions of an intention to create legal relations.
- Arrangements made between family members are not usually legally binding. [1]
Balfour v. Balfour 1919 [1]
 - Commercial agreements in which the intention is presumed and must be rebutted by the party seeking to deny it. [1]
Esso Petroleum Company Ltd. v. Commissioner of Customs and Excise 1976 [1]
- [4 marks]**
- (ii) Principle emerging from *Carlill v. Carbolic Smoke Ball Co.*
- **The advertisement is a conditional offer rather than an invitation to treat.**
Performance can amount to acceptance of an offer.
- Clear explanation of any one relevant principle [2 marks]**
Weak explanation [1 mark]
- (b) - *Custom or habit*
Case: *Hutton v. Warren* (1836): Local custom meant that on termination of an agricultural lease the tenant was entitled to an allowance for seed and labour on the land. The court held that the lease made by the two parties must be viewed in the light of this custom. As Baron Parke in the Court of Exchequer said "It has long been settled that in commercial transactions extrinsic evidence of custom and usage is admissible to annex incidents to written contracts, in matters with respect to which they are silent."
- *Terms implied by trade or professional custom*
The parties to a contract might be bound by an implied trade custom when it is accepted as their deemed intention even though there are no express terms on the matter.
Case: *Les Affreteurs Reunis SA v. Walford* (Walford's case) (1919) In this case that we have already seen in privity of contract, Walford was suing for a commission of 3% that he felt he was owed for negotiating a charter party between Lubricating and Fuel Oils Co. Ltd and the owners of the SS 'Flore'. One argument of the defendants was that there was a custom that commission was payable only when the ship had actually been hired. In this instance the French government had requisitioned the ship before the charter party had actually occurred. If the custom was accepted then it would conflict with the clause in the contract

requiring payment as soon as the hire agreement was signed, so it was held not to have been implied into the contract.

- *Terms implied to give business efficacy to a commercial contract*

Parties would not enter a contract freely that had no benefit for them or indeed that might harm them or cause them some loss. So the courts will imply terms into a contract that lacks them in express form in order to sustain the agreement as a business like arrangement.

Case: *The Moorcock* (1889). The defendants owned a wharf with a jetty on the Thames. They made an agreement with the claimant for him to dock his ship and unload cargoes at the wharf. Both parties were aware at the time of contracting that this could involve the vessel being at the jetty at low tide. The ship became grounded at the jetty and broke up on a ridge of rock. The defendants argued that they had given no undertaking as to the safety of the ship. The court held that there was an implied undertaking that the ship would not be damaged. Bowen LJ explained that "In business what the transactions such as this, what the law desires to effect by the implication is to give such business efficacy . . . as must have been intended."

Clear explanation of any two methods 2 marks each [4 marks]
Case or example 1 mark each [2 marks]

- (c) A commercial agreement has clearly been made.
 Any other relevant point

Cases:

Carlill v. Carbolic Smoke Ball Co.
Rose and Frank v. Crompton

[2 marks]

Effect of Lil's hoarseness: Would this agreement be regarded as frustrated? Compare *Poussard v. Spiers and Pond* with *Storey v. Fulham, Steel Works*. See also *Bettini v. Gye* case on breach of contract.

[4 marks]

Cases on frustration of contract which may be helpful include

Krell v. Henry
Taylor v. Caldwell

Analysis:

Identification of issue

Definition of terms

Determination of issue with supporting case law

Soundness of argument

[4 marks]

Application and Conclusion

[2 marks]

Coherence

[3 marks]

Total 25 marks

SECTION C

MODULE 3 - REAL PROPERTY

Question 3**Specific Objectives: 4 (a), 4 (c)**

(a) Bare licence

- A mere permission to enter on the land of the licensor to do something;
- No consideration is exchanged;
- May be revoked at any time by the licensor without notice, but the licensee must be given a time to leave;
- Licensee becomes a trespasser once time given to remain on the property has expired.

Clear explanation of any two features 2 marks each [4 marks]

Partial explanation 1 mark each

(b) (i) Implied covenants of the landlord

- **Quiet enjoyment**

- At common law there is an implied covenant of the landlord that once the tenant has been put in possession of the property he shall have quiet enjoyment of the property during the continuation of the lease.
- The tenant is entitled to recover damages if the landlord or any other person claiming through him substantially disturbs or physically interferes with the tenant's enjoyment of the land.
- Examples of breaches - blocking the tenant's access to outdoor facilities, bulldozing structures on the premise, removing doors, windows or roof of the building in order to get rid of the tenant - *Lavender v. Betts* (1942); causing the electricity or water supply to be cut off - *Tapper v. Myrie* (1968)

- **Non-derogation from grant**

- Landlord must not frustrate the use of the land for the purpose for which it was let - *Browne v. Flower* (1911)
- To constitute a breach of covenant the landlord must do some act which renders the demised premises substantially less fit for the purposes for which they were let
- For example, excessive dust and fumes given off from neighbouring land seriously interfering with the use and enjoyment of land.
- Any other relevant point

- **Fitness for habitation**
 - Furnished residential premises must be fit for habitation at the commencement of the tenancy *Collins v. Hopkins* (1923). For example, drains must not be defective – *Wilson v. Finch-Hatton* (1877); premises must not be infected with bugs *Smith v. Marrable* (1843).
 - A landlord of residential apartments in a high rise building has an implied duty to keep the elevators, staircases and other common facilities such as lighting, and garbage disposal facilities in a reasonable state of repair for the benefit of all the tenants in the building.
 - Breaches – failure to maintain common areas (elevators, garbage disposal)

Any two implied covenants of the landlord clearly explained
2 marks each **[4 marks]**
Any two examples of breaches stated 1 mark each **[2 marks]**

- (c) **Issue: Whether Sunil has acquired a proprietary/equitable interest in the property**

Licence by estoppel gives rise to a proprietary interest in land where:

- Promise made by the land owner. Mr Maraje promised to transfer a parcel of land to Sunil in exchange for his services
- The titleholder expends money on some improvement to property or otherwise acts to his detriment. Based on Mr Maraje's promise, Sunil built a house on the land, and grew crops
- The expenditure was made with the mistaken belief by the person making it that he would enjoy some privilege or interest in the land. Sunil acted with the mistaken belief that he would acquire an interest in the property
- The titleholder knows that the licensee was acting to his detriment with the mistaken belief that he would acquire an interest in the land. Mr Maraje knew that the expenditure was being made by Sunil, and that it was being made with the mistaken belief that he would acquire an interest in the property
- Equity will intervene to stop the legal title holder from denying that the person making such expenditure had an interest in the property.

Cases:

Central London Property Trust Ltd v. High Trees House Ltd
Clarke v. Kellarie
Denson v. Bush
Inwards v. Baker

Any three points well explained 2 marks each [6 marks]

Partial or weak explanation 1 mark each

Any two cases/examples clearly explained 2 marks each [4 marks]

Application and conclusion [2 marks]

Coherence [3 marks]

Total 25 marks

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SUBJECT

LAW – UNIT 2 – Paper 032

PROFICIENCY

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LAW

PUBLIC LAW

UNIT 2 – Paper 032

SPECIMEN PAPER

1 hour 30 minutes

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This paper consists of ONE question.
2. Read the question carefully before you begin writing your response.
3. You may refer to your prepared notes on the topic to be assessed.
4. Write your responses in the answer booklet provided.
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TOPIC: STRICT LIABILITY

Answer this compulsory question.

- (a) Explain the meaning of the term 'strict liability' in tort, using ONE example to illustrate your answer. **[13 marks]**

- (b) Mr Shoemaker has a ferocious Alsatian dog which he usually keeps tied during the day and releases at night. One morning Mr Shoemaker goes to work and forgets to put the dog in its kennel. A little later that morning the postman comes to the gate and calls the housemaid, Angie, who, while walking out to the gate to collect the mail is attacked and badly bitten by the dog. The dog had escaped several times before and had bitten persons passing in the street.

Advise Angie if she can successfully bring an action in tort against Mr Shoemaker.

[17 marks]

Total 30 marks

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SUBJECT: LAW – UNIT 2 – Paper 032

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LAW

UNIT 2 Paper 032

KEY AND MARK SCHEME

2017

LAW
UNIT 2 Paper 032
KEY AND MARK SCHEME

STRICT LIABILITY

Specific Objective: 6

- (a) Candidates are expected to explain 'strict liability' in tort including the key elements

Definition:

- Automatic responsibility for damages due to possession and/or use of equipment, materials or possessions which are inherently dangerous such as explosives, wild animals, poisonous snakes, or assault weapons.
- Defendant is liable even though the damage to the plaintiff occurred without intention or negligence/fault on defendant's part.
- Motive of the defendant is irrelevant.
- It does not matter what sort of precautions the defendant takes.
- The primary basis of liability is the creation of an extraordinary risk.
- If the activity is appropriate to the area, strict liability exists only if the activity is conducted in an unusual or abnormal way.
- A deterrent aspect of tort, aimed at inducing persons to modify their behaviour so as to avoid harming others.

Any other relevant point

Any three points clearly explained 2 marks each

[6 marks]

Clear explanation including only one point 2 marks

Weak explanation 1 mark

Example of Strict Liability

Liability for animals

- Test: called *Scienter*, that is, owner liable for harm caused by the animal. The type of action is called a *scienter* action.
- Because animals are not governed by a conscience and possess great capacity to do mischief if not restrained, those who keep animals have a duty to restrain them.
- In most jurisdictions the general rule is that keepers of all animals, including domesticated ones, are strictly liable for damage resulting from the trespass of their animals on the property of another.

LAW
UNIT 2 Paper 032
KEY AND MARK SCHEME

Students are expected to explain any **one** example of strict liability in tort showing how liability is established.

Any example clearly explained	3 marks
Any relevant case/example clearly explained	2 marks
Coherence	2 marks

[13 marks]

(b) Principles of liability for animals

- For purposes of liability for harm other than trespass, the law distinguishes between domesticated and wild animals
- The keeper of **domesticated animals** (*Mansuetae naturae*), which include dogs, cats, cattle, sheep, and horses, is strictly liable for the harm they cause **only if the keeper had actual knowledge** that the animal had the **particular trait or propensity that caused the harm**
- The dog must have shown a propensity in the past to do **harm of that kind** and the owner or keeper is proved to **have had knowledge of such propensity**
- The **trait must be a potentially harmful one**
- Not necessary to show that the dog had actually done the particular type of damage on a previous occasion, but exhibited a **tendency** to do that kind of harm
- Onus on the plaintiff to prove this (*Barnes v. Lucille*)
- The requisite knowledge of an animal's vicious propensity must relate to the particular propensity that caused the damage, for example, if dog attacks a man, it must be shown that the animal had a propensity to attack humans: it would not be sufficient to show a propensity to attack other animals - *Glanville v. Sutton*
- It is sufficient to show that the dog habitually rushed out of kennel and attempted to bite passersby (*Work v. Gilling*).
- Keepers of species that are normally considered '**wild**' (*Ferrae naturae*) are **strictly liable for the harm these pets cause if they escape, whether or not the animal in question is known to be dangerous.**
- Because such animals are known to revert to their natural tendencies, they are considered to be wild no matter how well trained or domesticated.

LAW
UNIT 2 Paper 032
KEY AND MARK SCHEME

Cases:

Barnes v. Lucille
Rands v. McNeil
Glanville v. Sutton
Work v. Gilling

Any four points clearly explained	2 marks each	8 marks
Any two cases clearly explained	2 marks	4 marks
Application and conclusion		3 marks
Coherence		2 marks

[17 marks]

Total 30 marks

LAW
UNIT 2 Paper 032
KEY AND MARK SCHEME

Level	Criteria	Score
1	A logical, well-developed response; demonstrates excellent understanding of cases and issues, consistently cites relevant sources to support answer	27-30
2	A logical, well-developed response, demonstrates very good understanding of cases and issues, usually cites relevant sources to support answer	23-26
3	A logical, fairly well developed response; demonstrates good understanding of cases and issues, usually cites relevant sources to support answer	19-22
4	Satisfactory logic and development shown in response; demonstrates satisfactory understanding of cases and issues, occasionally cites relevant sources to support answer	15-18
5	Acceptable logic and development shown in response; demonstrates acceptable understanding of cases and issues, occasionally cites relevant sources to support answer	11-14
6	Weak logic and limited development shown in response; demonstrates poor understanding of cases and issues, rarely cites relevant sources to support answer	7-10
7	Unsatisfactory logic and minimal development shown in response; and demonstrates unsatisfactory understanding of cases and issues, very rarely cites relevant sources to support answer	1-6



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