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**CARIBBEAN EXAMINATIONS COUNCIL
CARIBBEAN ADVANCED PROFICIENCY EXAMINATION®**

LAW

PUBLIC LAW

UNIT 1 – Paper 02

2 hours 30 minutes

28 MAY 2014 (a.m.)

READ THE FOLLOWING INSTRUCTIONS CAREFULLY.

1. This paper consists of SIX questions, TWO questions based on EACH Module.
2. Answer ONE question from EACH Module.
3. Write your responses in the answer booklet provided.

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02131020/CAPE 2014



SECTION A

MODULE 1: CARIBBEAN LEGAL SYSTEMS

Answer ONE question from this section.

EITHER

1. The vision of the Caribbean Court of Justice (CCJ) is “to provide for the Caribbean Community an accessible, fair, efficient, innovative and impartial justice system built on jurisprudence reflective of our history, values and traditions while maintaining an inspirational, independent institution worthy of emulation by the courts of the region and the trust and confidence of the people”.

Critically assess the above statement against the views advanced for and against the CCJ.

Total 25 marks

OR

2. (a) Distinguish between ‘mediation’ and ‘arbitration’. **[10 marks]**
- (b) In 2010, the XYZ Construction Company Ltd (XYZ) received a contract from Brandon HDC Ltd to supply and install kitchen cupboards in newly constructed houses. The job was to be completed in six months. Three years later the job is not completed. Brandon HDC Ltd wants to sue XYZ for breach of contract.

What reasons would you give to Brandon HDC Ltd to convince them that Alternative Dispute Resolution is a better way to resolve this dispute? **[15 marks]**

Total 25 marks

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SECTION B

MODULE 2: PRINCIPLES OF PUBLIC LAW

Answer ONE question from this section.

EITHER

3. (a) With reference to decided cases, explain why the separation of powers doctrine is a core principle of Commonwealth Caribbean constitutions. **[15 marks]**
- (b) With reference to decided cases, assess the view that the rule of law is the foundation of any just society. **[10 marks]**

Total 25 marks

OR

4. The Minister of Health (the Minister), pursuant to Section 6 of the Pharmacies Act, issues a directive that the Pharmacies Registration Board (PRB), which is responsible for issuing licences to pharmacies, is not to intervene in the pharmaceuticals market by setting the price of certain imported drugs or maintaining price caps on certain drugs.

Section 6 of the Pharmacies Act provides that:

“The Minister may give to the PRB such directions of a general nature as to the policy to be followed by the PRB in the performance of its functions under the Act as the Minister considers necessary in the public interest and the PRB shall give effect to those directions.”

The Director of the PRB issues a determination that increases the price of certain drugs imported by ten per cent.

- (a) Determine whether the Minister’s direction is *ultra vires* Section 6. **[20 marks]**
- (b) Explain whether the PRB’s determination is *ultra vires* the Minister’s direction. **[5 marks]**

Total 25 marks

SECTION C

MODULE 3: CRIMINAL LAW

Answer ONE question from this section.

EITHER

5. (a) “Automatism applies to the situation where the defendant is not legally insane but because of some external factor he is unable to control what he is doing.”

Discuss the above statement using decided cases to illustrate your answer. **[12 marks]**

- (b) Explain the offence of robbery with reference to decided cases or examples.

[13 marks]

Total 25 marks

OR

6. (a) Explain the role of consent in the offence of intentional actual bodily harm. Support your explanation by referring to decided cases or examples. **[10 marks]**

- (b) Stan, Brad and Jake willingly participated in acts of violence against each other, including genital torture, for the sexual pleasure engendered in the giving and receiving of pain. The passive partner in each case consented to what was done and the bodily harm suffered was not permanent.

Their activities which took place in private were video recorded and the tapes distributed. The tapes were obtained by the police and they were each charged with assault occasioning actual bodily harm and unlawful wounding.

Advise Stan, Brad and Jake, whether they have a defence to the charges. Support your advice by referring to decided cases. **[15 marks]**

Total 25 marks

END OF TEST

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