

**CMD LAW EXAMINATION 2013
MARKING GUIDE**

Question 1

- a) Bingo permissible in clubs.
- **Played as a club activity.** 1
 - no limit on stakes or prizes 1
 - participants must be members or their bona-fide guests or associate members and, if the club rules allow, their guests also 1
 - maximum participation fee of £1 per person, per day (or £3 plus VAT where a club gaming permit is held) 1
 - games cannot be linked to other premises 1
 - no deduction from sums staked or won 1
 - under 18's cannot participate (unless a club admits under 18's to membership and the club does not have a rule against them playing. Bona fide guests under 18 may also play if club members in the same age group are allowed to play). 1
 - **Played at a non-commercial event.** 1
 - no private gain; participants must be told that the object is to raise funds for club or other non-commercial cause 1
 - maximum payment by way of participation fee, stake or other charge is £8 per game 1
 - value of prizes for all games at the event not to exceed £600 1
 - if a series of events are held on the same premises the value of prizes at the final event is not to exceed £900 1
 - under 18's cannot participate (unless a club admits under 18s to membership and the club does not have a rule against them playing. Bona fide guests under 18 may also play if club members in the same age group are allowed to play). 1
- b) Private society lottery.
- can only be promoted by one of its members 1
 - sale of tickets to members only and other persons on the premises used for the administration of the society 1
 - may only be promoted for a purpose for which the society is conducted 1
 - advertising on club premises only 1
 - tickets are sold or supplied only by or on behalf of the promoters 1
 - tickets must state the name and address of the promoter and the persons to whom the promoter can sell or supply the ticket 1
 - tickets are not transferable 1
 - the price of each ticket must be the same and be shown on the ticket and must be paid to the promoter before any person is given a ticket. 1

Question 2

a) Rules should include:

- the objects and purposes of the club 1
- the election and admission of members 1
- the payment of subscriptions 1
- the resignation, disciplining, suspension and expulsion of members 1
- the removal of officers and committee men 1
- the management of club affairs 1
- general meetings of the members, to gain information and take decisions 1
- the admission of guests 1
- the alteration of rules and the making of new rules 1
- authority for fixing the hours for the sale and supply of alcohol 1
- the dissolution of the club and disposal of assets 1

b) Advantages of a club registering as an Industrial and Provident Society are:

- club may sue and be sued in its registered name 1
- limited liability 1
- machinery provided for the settlement of disputes and dissolution of the club 1
- transfer of assets from an unregistered club to a registered club is automatic, no legal conveyance is required and no stamp duty is payable 1
- property investments, contracts, agreements etc. are held in the name of the club 1
- a floating charge can be given over the club's assets making it easier to raise finance 1

Disadvantages of a club registering as an Industrial and Provident Society are:

- an annual return and accounts have to be filed with the Financial Services Authority and a statutory audit may be required 1
- the Financial Services Authority has the power to appoint an inspector to examine the affairs of a society 1
- annual fees are payable 1

Question 3

a) Entitlement to redundancy pay (from 1 February 2012).

- must have two years of continuous employment 1
- payment is limited to the last 20 years before redundancy 1
- service before 18 and after 65 may be taken into account 1

- the following redundancy payments must be made:
 - Age 16 to 21 = $\frac{1}{2}$ x gross weekly wage 1
 - Age 22 to 40 = 1 x gross weekly wage 1
 - Age 41 to dismissal = $1\frac{1}{2}$ x gross weekly wage 1
- maximum amount of a week's pay for the purpose of calculation is £430 1
- maximum payment under the scheme is £12,900. 1

b) Periods of notice are:

- 4 weeks - 2 years service = 1 week
- 2 years - 12 years service = 1 week for each complete year of service
- 12 years + = 12 weeks 4

c) Give at least three examples of gross misconduct by a member of staff.

- theft
- breach of food hygiene regulations any 3 = 3
- fighting
- falsification of accounts
- adulteration of alcoholic drinks
- serving after time

d) Discrimination.

- disability
- gender re-assignment
- religion or belief
- sex any 5 = 5
- sexual orientation
- marriage
- civil partnership
- pregnancy and maternity

Question 4

a) Regulated entertainment

- performance of a play 1
- exhibition of a film 1
- indoor sporting event 1
- boxing or wrestling 1
- performance of live music 1
- playing of recorded music 1
- performance of a dance 1
- entertainment of a similar description to live music, recorded music or dance. 1

- b) CPC
- a CPC has no time limit 1
 - a CPC continues to have effect unless it is withdrawn by the licensing authority following an application for the review of the certificate or if the club ceases to be a qualifying club or it lapses on surrender by the club. 3
- c) Expelling a drunk
- A person who is drunk or disorderly commits an offence if s/he fails to leave relevant premises (defined as licensed premises, premises for which a CPC is in force, or premises which may be used for a TEN) at the request of:
- a police constable 1
 - any person who works at the premises in a capacity (whether paid or unpaid) authorising him/her to make such a request 1
 - the premises licence holder or designated supervisor (if any) 1
 - an officer or member of a club who is present at time of sale in a capacity which enables him to make such a request 1
 - the premises user relating to the relevant TEN 1

(20 marks if all 17 points are covered)

Question 5

Powers and duties.

- a) A club secretary.
- to deal with correspondence, collect subscriptions from the members and perform other clerical or organising duties as the committee may think necessary 3
 - if the club is registered under the Friendly Societies Act or the Industrial and Provident Societies Act s/he must notify the FSA of any change in the registered office of the club 1
 - know the club rules and advise the chairman and the committee as required 1
 - see that no breach of the law takes place 1
 - be the executive officer between meetings 1
 - the secretary will be personally liable to third parties where s/he orders goods without the authority of the club committee. For this reason, all orders should be placed on club notepaper or order forms clearly indicating in what capacity the secretary is acting 2
 - a secretary is liable to the club where as a direct and foreseeable result of failure to carry out his/her duties causes loss to the club 1

- b) A club committee.
- these are generally defined in the club's rules and are usually wide-ranging 1
 - various administrative duties such as ordering goods 1
 - deciding on new building work and alterations to the club 1
 - admission of new members 1
 - disciplining of members 1
 - disciplining of employees 1
 - determining disputes 1
 - making of bye-laws and regulations under the club's rules 1
 - filling of vacancies on the committee due to death, resignation, etc. 1
 - its decisions cannot be set aside by a general meeting of members unless the rules very unwisely so provide 1

Question 6

- a) Washing equipment other than hand washing.
- adequate facilities to be available for cleaning, disinfecting and storing utensils and equipment 1
 - adequate facilities for washing food and it should be drinking water 1
- b) Food waste.
- there should be adequate facilities for the storage and disposing of food waste 1
 - must be removed from rooms where food is present as quickly as possible and placed in appropriate closed containers 1
 - containers should be sound, easy to clean and, where necessary, easy to disinfect 1
 - waste food containers should be free from animals and pests 1
- c) Personal hygiene.
- those working in a food area must maintain a high level of personal cleanliness 1
 - they must wear suitable clean, and where appropriate, protective clothing 1
 - they should tie their hair back and wear suitable head covering when preparing food 1
 - they should not wear watches or jewellery when preparing food (except a wedding band) 1
 - they should not touch their face and hair, smoke, spit, sneeze or chew gum when handling food 1
- d) Fitness for work.

Staff should not handle food or enter a food handling area if they:

- are suffering from or carrying a disease likely to be transmitted through food 1
- have infected wounds, skin infections or sores 1
- have diarrhoea (staff with diarrhoea or vomiting should not return to work until they have had no symptoms for 48 hours) 1
- anyone affected by any of the above and likely to come into contact with food during their work should tell their employer immediately about their illness or symptoms and, if possible, what has caused them 1

e) Hand washing.

Staff that work with food should wash their hands properly:

- when entering the food handling area e.g. after a break or going to the toilet 1
- before preparing food 1
- after touching raw food such as meat, poultry and eggs 1
- after handling food waste or emptying a bin 1
- after cleaning 1
- after blowing their nose 1

Question 7

- consult the club rules 1
- summon member in writing to appear before committee giving three clear days notice 1
- letter must state time and date of hearing and the specific charge and that the member can call witnesses and be represented if s/he so wishes 1
- if the member fails to or cannot appear, consider giving another opportunity to appear 1
- at the hearing the secretary must read out the charge and call witnesses in support 1
- the member is entitled to cross-examine the witnesses 1
- the member and his/her witnesses must be allowed to put their side of the case 1
- the committee can cross-examine the witnesses 1
- witnesses should remain in the room after giving evidence until all submissions have been made 1
- after all submissions have been made everyone should leave the room except the adjudicating members of the committee and the secretary in an advisory capacity 1
- the committee should decide, by a simple majority, if the member is guilty or not guilty 1
- if guilty, a two-thirds majority (check rules) is required to carry through any proposal 1
- the committee may now, before sentencing, take account of any previous offences 1

- the committee usually has the power to reprimand, suspend (maximum 12 month suspension) or expel 1
- call member back and give him/her the decision 1
- committee decision should ideally be put to the member in writing and the decision recorded in the minute book 1
- if suspended or expelled he must hand over his membership and Associate Cards 1
- failure to hand over cards could result in further disciplinary action being taken 1
- tell the member s/he has the right to appeal against any decision 1

(20 marks for a full answer)

Question 8

a) Access to gambling by children and young persons:

- permit holders should put into effect procedures intended to prevent under age gambling 1
- only members and their guests may play the machines; under 18's may not 1
- procedures should include for checking the age of apparently under age customers, and 1
- refusing access to anyone who appears to be under age and who tries to use Category B or C gaming machines and cannot produce an acceptable form of identification 1
- permit holders should also take all reasonable steps to ensure that all relevant employees understand their responsibilities for preventing under age gambling 1
- permit holders should only accept identification which:
 - contains a photograph from which the individual can be identified: 1
 - is valid, legible and has no visible signs of tampering or reproduction 1
- acceptable forms of identification include: those carrying the PASS logo, driving licence, and passport 1
- procedures should be in place for dealing with those cases where a child or young person repeatedly attempts to gamble on category B or C machines, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling 2

b) State what you know about betting in a registered club.

- betting in itself is not illegal although it is an offence to allow betting transactions on unlicensed premises (i.e. the occupier of which does not hold either a Betting Office Permit or a Betting Agency Permit) 2
- any penalty relates to the Club, the Club Secretary or other officer who

- knowingly or negligently allows illegal betting transactions to take place 2
- betting transactions include not only the collection of bets, but also the settling of bets and payment of winnings thereon 2
- any Union club convicted of permitting infringement of the betting law is liable to be summoned before the executive to show cause why it should not be expelled from Union membership 2
- committees of Union clubs are recommended to refuse membership to Bookmakers and at all club events to ensure that they or their registered agents do not conduct their business on club premises 2