

CMD LAW EXAMINATION 2011

MARKING GUIDE

Question 1

- a) Powers and duties of a 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
- b) Agenda of a committee meeting:
- apologies for absence 1
 - minutes of previous meetings and matters arising 1
 - finance committee report 1
 - accounts to be paid 1
 - stock committee report 1
 - election for new members 1
 - motions 1
 - correspondence 1
 - matters arising from intervening AGM 1

(20 marks if all 19 points are covered)

Question 2

- a)
- a TEN should be sent to the relevant licensing authority and the relevant police at least 10 working days before the day on which the event begins 3
- b)
- no more than 499 people (including staff and organizers) attending at any one time 1
 - an individual is limited to giving 5 TENs in a calendar year, unless they are a personal license holder for the sale of alcohol, in which case they can give 50 1
 - a limit of 12 TENs may be given in respect of any particular premises in a calendar year 1
 - an event may last for no more than 96 hours 1
 - the maximum aggregate duration of the periods covered by TENs on any individual premises is 15 days 1

- c)
- the supply of alcohol by or on behalf of the club to, or the order of, members of the club (off premises supplies to members) 1
 - the sale by retail of alcohol by or on behalf of the club to a guest of a member (including associates) for consumption on the premises where the sale takes place 1
 - the provision of regulated entertainment (where that provision is by or on behalf of a club for members of the club or members of the club and their guests) 1
- d) The descriptions of entertainment in the Act are:
- 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

(20 marks for a full answer)

Question 3

- a) Under what conditions can bingo be played in a club?
- **Played as a club activity**
 - 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 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
 - **Played at a non-commercial event**
 - 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 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

(20 marks if all 19 points are covered)

Question 4

a)

- the secretary should advise that no steward or permanent employee should be a member of the club s/he serves, or on the committee of the club as this can and often does result in disorder in the club and difficulties for the committee. 2
- before an appointment is made it should be laid down that s/he should not be a member of the club, or if already a member, that s/he shall resign 1
- s/he may join another club and be an Associate 1

b) Describe fully the procedure that should be followed by a committee when disciplining a member of staff.

- consult the employee's contract of employment and disciplinary procedure. These should comply with the basic principles of good practice in conducting disciplinary action are now set out in the ACAS Code of Practice on Disciplinary action in the ACAS Code of Practice on Disciplinary and Grievance Procedures and guidance booklet entitled Discipline and Grievances at Work: The ACAS Guide. 2
- an employee must be informed of the complaints against him/her and given an opportunity to state his/her case to the managing committee before the decision is reached. 2
- an employee has the right to be represented by a Trade Union representative or by a colleague at any stage of the procedure. 2
- investigations of potential disciplinary matters will be carried out without unreasonable delay. 1
- before a penalty is imposed the reasons for such and imposition should be explained to the employee. 1
- usual steps are: oral warning, written warning, final written warning and dismissal 2
- except in cases of gross misconduct, employees should not be dismissed for a first breach of discipline. 1
- disciplinary action should not be taken by the club until the case has been fully investigated. 2
- if dismissal, statutory /contract periods of notice must be complied with. 1
- employee should be given a right of appeal in respect of any disciplinary matter. 2

Question 5

- 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 the 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 6

- a) Insurances
- property (includes fire, theft, water damage and subsidence) 1
 - contents 1
 - business interruption 1
 - money/fidelity insurance of officials 1
 - personal accident for committee, members and employees – not compulsory 1
 - employer's liability 1
 - public and products liability 1

(10 marks for a full and detailed answer)

- b) Performing Right Society
- protects the interests of the owners of musical copyright 2
 - PRS in an association of authors, composers, publishers and other owners of musical copyright 2
 - PRS was established to protect and enforce their rights to restrain

unauthorised use of their works and to collect fees for permission to perform such works in public	2
Phonographic Performance Limited	
• gives protection to the maker of the recording as distinct from and in addition to the protection given to the composer or copyright owner of the music recorded	2
• was formed for the purpose of issuing licences for the public performance of records, CDs, tapes and other recording media	2

Question 7

a)		
• 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 he/she 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 committee member who witnessed the event should not take part in the proceedings unless the committee has asked him to appear as a witness on behalf of the club		1
• the member is entitled to cross-examine the witnesses		1
• the member and his 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
• maximum 12 month suspension		1
• call member back and give him the decision		1
• the committee's decision should also be confirmed in writing to the member		1
• if suspended or expelled he/she must hand over his/her membership and associate cards		1
• tell the member he/she has the right to appeal against any decision		1
b)		
• the member's previous suspension must only be referred to if and when a guilty verdict is declared		1
• the committee may take into account a member's previous record when laying down their sentence.		1

Question 8

a) Main offences under the Food Safety Act 1990 are:

- selling/possessing for sale food that does not comply with food safety requirements 1
- rendering food injurious to health 1
- selling food that is not of the nature, substance or quality demanded 1
- falsely/misleadingly describing/presenting food 1

b) Personal hygiene

- Every person working in food handling areas should:
 - maintain a high level of personal cleanliness. 1
 - wear suitable clean clothing and, where necessary, protective clothing 1
 - keep hair tied back and wear suitable head covering when preparing food 1
 - not wear watches or jewellery when preparing food (except a wedding band) 1
 - not touch their face and hair 1
 - not smoke, spit, sneeze, eat or chew gum when handling food 1
- Staff that work with food must 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 or eggs 1
 - after handling food waste or emptying a bin 1
 - after cleaning 1
 - after blowing their nose 1
 - staff should dry their hands on a disposable towel - harmful bacteria can spread more easily if hands are wet or damp 1
- The following 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