

Multiple Choice Marking Results

05 May 2018 08h44

Question	Lecturer's answer	Your answer	Student	
1	4	1 incorrect	Academic Year	2018
2	3	3	Semester	1
3	2	1 incorrect	Course	CML1501
4	2	1 incorrect	Assignment No.	2
5	5	1 incorrect	Unique No.	688523
6	4	1 incorrect	Answers Correct:	3
7	1	1	Answers Wrong:	7
8	3	1 incorrect	Total questions marked:	10
9	5	5	Percentage:	30%
10	4	5 incorrect	Reference number:	149-475-8010

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**ASSIGNMENT 01**



Module Code: CML1501

Module Title

Semester 1

Due Date 14 March 2018

Unique Number 694436

## Question 1

- 1.1 The difference between copy right and intellectual property.  
Copy right is the product of the intellect or mind and Intellectual property is the product of a person's mental activity
- 1.2 Plagiarism of copyright protected works means is also copyright infringement it may also occur when copyright protection has lapsed to explain that further is also fraud as that person is pretending to be the author, when, in actual fact you are the author. Also if someone passes off your work as his or her own, it's called plagiarism involves not only copying, but also an element of deceit. If someone publishes your work under another person's name or includes long passages from your work without acknowledgement,
- 1.3 Yes copyright material can be copied but you would not be able to reproduce someone's written work in order to sell it and make a profit unless you applied to be copyright owner, and paid them a fee. However, the copyright act 98 o 1978 does, to a limited extend, allow copying for private use without Appling to copyright owner.
- 1.4 Illegal reproductions of copyright material is when a person or institution makes a copy of a book without the copyright owners permission, they commit to an offence under the Counterfeit Goods Act. Whereby this Act creates a number of offences relating to making and dealing in counterfeit and pirated goods.
- 1.5 According to section 2 (1) of the Copyright Act 98 of 1987 these are eligible for copyright protection which are Broadcasts, Literary works, musical works, artist works, cinematograph films, sound recordings, programme-carrying signals published editions and computer programmes are all protected by copyright . 40
- 1.6 No the copyright Act defines a literary work as being 'Irrespective of literary quality and in whatever mode or form expressed, It emphasised that a literary work does not have to be a great work of literature. The literary work does not have to be specific kind of literary work nor does it have to follow a certain way of doing things.
- 1.7 If copyright last for 50 years it means that the original work is protected from unauthorised reproduction for 50 years from the end of the year in which the author dies. Where else in other countries for example like Europe Union the duration of copyright is the life of the author plus 70 years. When copyright expires, the work become public property and anyone may use the original work or earn money from it.
- 1.8 On section 12 (a) of the Act states that copyright is not infringed by any fair dealing with literary or musical work for the purpose of research or private study by, or the personal or private use of the person using the work fair dealing is a difficult concept to explain because what is fair in any given situation will always depend on circumstance of that situation. However, it is reasonable to expect that a single copy of part of work made for your own use, will qualify as a fair dealing

**Number of Pages: 2**  
**Word Count: 534**



# RESULTS

3

Total = 18 / 20 (90%) 

# COMMENTS

1	Copyright lasts for the lifetime of the creator plus 50 years after their death.
2	Please include a bibliography in your future assignments.
3	Excellent.

memo

# Tutorial Letter 201/1/2018

**COMMUNICATIONS LAW**

**CML1501**

**Semester 1**

**Department of Criminal and Procedural Law**

This tutorial letter contains important information  
about your module.

BARCODE

Dear Student

This tutorial letter contains the following:

- |   |   |
|---|---|
| 1 | <b>INTRODUCTION</b>                           |
| 2 | <b>COMMENTARY ON COMPULSORY ASSIGNMENT 01</b> |
| 3 | <b>COMMENTARY ON COMPULSORY ASSIGNMENT 02</b> |
| 4 | <b>THE EXAM FORMAT AND THE STUDY GUIDE</b>    |
| 5 | <b>CONCLUDING REMARKS</b>                     |

## 1 INTRODUCTION

In this tutorial letter we discuss the questions given in the two compulsory assignments, the format of the exam and what to study from the study guide for the purposes of the exam.

As you have probably already noticed (by reading Tutorial letter 101) there will be ten (10) multiple choice questions in the examination. However, this does not mean that you will necessarily get the same multiple-choice questions in the exam that is contained in this assignment. It is possible that a question may be asked where some aspects of the question may overlap with a question in this assignment, but that other aspects of this question have been changed. You will also get completely new multiple-choice questions. Also, bear in mind that the various alternatives mentioned under each multiple-choice question can easily be adapted to provide a straightforward question in the examination. Therefore, do not ignore the assignment when you prepare for the examination, but use it as an additional test to determine whether you know your work or should put in more effort.

## 2 COMMENTARY ON COMPULSORY ASSIGNMENT 01

### **QUESTION 1** (Total 20 marks)

***PLEASE TAKE NOTE THAT SINCE I AM TRYING TO INCOPRORATE AS MUCH OF THE PROBABLE ANSWERS AS I POSSIBLY CAN, THIS MEMO MAY OR MAY NOT EXCEED THE WORD LIMITATION. THESE ANSWERS MAY ALSO NOT TAKE INTO ACCOUNT SOME OF YOUR REPLIES BUT PLEASE BE ASSURED THAT YOU WILL NOT BE PREJUDICED WHEN IT IS MARKED. YOU ARE HOWEVER EXPECTED TO ANSWER THE QUESTIONS IN YOUR OWN WORDS.***

- (1) **What is the difference between "copyright" and "intellectual property"?**

Intellectual property is the product of the intellect, or mind.  
Copyright is the right to protect intellectual property from unauthorised usage.

- (2) **Discuss what is meant by "Plagiarism of copyright protected works".**

If someone passes off your work as his or her own, this is plagiarism. Plagiarism involves not only copying, but also an element of deceit. If someone publishes your work under another person's name or includes long passages from your work without acknowledgement, this is also plagiarism.



Plagiarism of copyright protected works is also a copyright infringement (Plagiarism may also occur where copyright protection has lapsed). Plagiarism is also fraud as that person is pretending to be the author, when, in actual fact, you are the author.

- (3) Can copyright material be copied? Do not merely respond YES or NO. Give a detailed explanation for your response.**

You would not be able to reproduce someone's written work in order to sell it and make a profit unless you applied to the copyright owner and paid them a fee. However, the Copyright Act 98 of 1978 does, to a limited extent, allow copying for private use without applying to the copyright owner.

- (4) What constitutes illegal reproductions of copyright material?**

When a person or institution makes a copy of a book without the copyright owner's permission, they commit one or more of the following unlawful acts:

- \* The infringement of the copyright in the literary work and the published edition.
- \* The infringement of the publisher's registered trademark.

- (5) What kinds of work are eligible for copyright protection?**

Literary works, musical works, artistic works, cinematograph films, sound recordings, broadcasts, programme-carrying signals, published editions and computer programmes are all protected by copyright. (See section 2 (1) of the Copyright Act 98 of 1978.)

- (6) Does this mean, in the case of a literary work, that it has to have some outstanding literary quality?**

No. The Copyright Act defines a literary work as being 'irrespective of literary quality and in whatever mode or form expressed.' This means that a literary work does not have to be a great work of literature. The literary work does not have to be a specific kind of literary work; nor does it have to follow a certain way of doing things.

The Act lists the following literary works as being eligible for protection:

- novels, stories and poetical works
- dramatic works, stage directions, cinematograph film scenarios and broadcasting scripts, textbooks, treatises, histories, biographies, essays and articles
- encyclopaedias and dictionaries
- letters, reports and memoranda
- lectures, speeches and sermons
- tables and compilations (collections), including tables and compilations of data stored or embodied in a computer or a medium used in conjunction with a computer e.g. an electronic database (Computer programmes

themselves do not qualify for protection as literary works, they are protected as a separate category).

Thus, when the Act refers to a 'literary work', it really means a 'written' work as distinct from a drawn, painted or photographed work.

**(7) When we say copyright lasts for 50 years etc...what does this mean?**

In South Africa, copyright lasts for the life of the author plus 50 years. This means that the original work is protected from unauthorised reproduction for 50 years from the end of the year in which the author dies. In some other countries (for instance, the United States, the United Kingdom and the countries of the European Union) the duration of copyright is the life of the author plus 70 years. When copyright expires, the work becomes public property and anyone may use the original work or earn money from it.

**(8) Are you allowed to photocopy part of a book for my own personal and private use?**

This is a surprisingly difficult question to answer! Section 12(1)(a) of the Act states that: "...copyright is not infringed by any fair dealing with a literary or musical work for the purposes of research or private study by, or the personal or private use of, the person using the work." 'Fair dealing' is a difficult concept to explain because what is 'fair' in any given situation will always depend on the circumstances of that situation. However, it is reasonable to expect that a single copy of part of a work, made for your own use, will qualify as 'fair dealing'.

The answers provided are meant to guide you and do not provide an exhaustive list. You will be marked according to the quality of your answer and understanding of the question.

**3 COMMENTARY ON COMPULSORY ASSIGNMENT 02  
(Total 10 marks)**

**Question 1**

- (a) Jurisdiction is a term that refers to the limits of any governmental body's rights and powers.
- (b) Jurisdiction is determined only by the geographical territory within which a governmental body or organ of state may exercise its legal authority.
- (c) As long as the two laws are not contradictory or in conflict with each other we say that national and provincial governments have concurrent jurisdiction.

Jurisdiction is determined by considering the following two aspects:

- (1) the geographical territory within which a governmental body may exercise its legal authority
- (2) the subject matter over which a governmental body has legal authority

Therefore, only (a) and (c) are correct

**Question 2**

- (a) An appellate court is a court, which has a higher status than a trial court.
- (b) A trial court is the court where a lawsuit is introduced for the first time.
- (c) In appellate courts evidence is presented to determine the facts of a case and a decision is reached by applying the law to those facts.

In **trial courts** evidence is presented to determine the facts of a case and a decision is reached by applying the law to those facts. An **appellate court** is a court which has a higher status than a trial court. Here a judge or a panel of judges determine whether the trial court has made any errors in its application of the law and whether those errors justify changing the trial decision.

Therefore, only (a) and (b) are correct

**Question 3**

- (a) ✓ Appeals against decisions by a magistrate can only be made with the permission of the court concerned.
- (b) ✓ Appeals against the decisions of the High Court are always possible.
- (c) ✓ There is an automatic right to appeal to the highest court.

Appeals against decisions by a magistrate are always possible but appeals against the decisions of the High Court can only be made with the permission of the court concerned (or, if the court concerned refuses, with the permission of the Supreme Court of Appeal). So, in many cases there is no automatic right to appeal to the highest court. Instead, courts tend to accept on appeal only those cases that present more important or new types of legal questions.

Therefore, all are the statements are incorrect

**Question 4**

- (a) Publications relating to explicit infliction of extreme violence, which constitutes incitement to cause harm, is classified as X18 classification.
  - (b) Films containing scenes relating to simulated child pornography is not classified.
  - (c) Publications containing harmful or disturbing material against which children should be protected is classified as X18.
- (a) False XX classification
  - (b) False classified as XX classification
  - (c) False R18

Therefore, all the statements are incorrect

### Question 5

- (a) Where a publication or film has been classified as XX or X18 by the Review Board, only the Minister, may appeal to the High Court against the decision.
- (b) The court may suspend the decision pending the outcome of the appeal.
- (c) The High Court may then confirm the decision or set it aside.

Where a publication or film has been classified as XX or X18 by the Review Board, the Minister, the person who lodged a complaint, the publisher or distributor of the publication or the person who applied for the classification of the film may appeal to the High Court against the decision within 30 days. The court may suspend the decision pending the outcome of the appeal. The High Court may then confirm the decision or set it aside and give such decision, classification or impose such conditions as should in its view have been given, made or imposed.

Therefore, only (b) and (c) are true.

### Question 6

According to section 153(3) of the Criminal Procedural Act 51 of 1977:

- (a) Both a complainant and/or the victim is the person who originally lays the charge with the police.
- (b) Where such a complainant has been the victim of an indecent act or blackmail, he or she may not ask the court to protect him or her from publicity.
- (c) Where the complainant is a minor (under 18 years of age) his or her parent or guardian has a discretion to ask the court to protect him or her from publicity.

Where such a complainant has been the victim of an indecent act or blackmail, he or she can ask the court to protect him or her from publicity. Where the complainant is a minor (under 18 years of age) his or her parent or guardian must state the request.

Therefore, only (a) is correct.

### Question 7

Regarding access to court records:

- (a) During pre-trial proceedings in the High Court, when pleadings are exchanged and discovery takes place, no right of access to court records exists.
- (b) The records of a magistrate's court are accessible to the public. Therefore, the public has a right to see these records.
- (c) The fact that the public is totally or partially excluded from attending a civil case in a magistrate's court, does not affect the public's right to gain access to the records.

All statements are correct.

**Question 8**

- (a) The crime of contempt of court not only serves to protect the dignity, reputation and authority of the courts, but it also imposes restraints on freedom of speech and freedom of the press.
- (b) The reason for the existence of the offence of contempt is that there must be a balance between the proper administration of justice, and the rights of individuals and the press to express themselves freely.
- (c) The right to freedom of expression (s 16) need not be balanced against other fundamental rights in the Constitution.

The right to freedom of expression (s 16) should be balanced against other fundamental rights in the Constitution such as the right of access to a court of law (s 34) and the right of accused persons to a fair trial (s 35(3)).

Therefore only statements (a) and (b) are correct.

**Question 9**

Regarding the authorised interception of communication in terms of the Regulation of Interception of Communications and Provisions of Communication-related Information Act 70 of 2002:

- (a) An application for an interception direction may be made by any individual.
- (b) Any interception direction is issued by a judge who has been discharged from active service and has retired and been designated by the Minister of Justice for this purpose.
- (c) When such an interception direction is issued it may only be issued for a period not exceeding three months at a time.

The Act specifies who the applicant for an interception direction may be. Generally speaking it has to be an officer in the Police Services or the Defence Force, a member of the National Intelligence Services, the head of the Directorate of Special Operations (relating to the prosecuting authority), someone authorised by the National Director of Public Prosecutions or a member of the Independent Complaints Directorate (established in terms of the Police Services Act).

Therefore, only (b) and (c) are correct.

**Question 10**

- (a) A broadcast usually consists of literary or musical works which are the subject of separate copyrights.
- (b) An unauthorised translation of a book does not enjoy copyright.
- (c) A broadcast usually consists of literary or musical works which are the subject of separate copyrights

The translation of a book enjoys a separate copyright. If the translation was not authorised by the copyright owner of the original work, the translation will be an infringement of the copyright in the original work. The translator will nevertheless be entitled to prevent others from reproducing his translation.

Therefore only (a) and (c) are correct

#### 4. THE EXAM FORMAT AND THE STUDY GUIDE

##### **The Exam Format:**

As per Tutorial Letter 101, the exam format will be exactly like it was in previous years. It is to your benefit to go through previous year exam papers to familiarise yourselves with the format.

You are expected to write your answers on the exam booklet itself.

Previous exam papers are given to you for REVISION; we DO NOT provide the answers to those questions.

##### **Section A**

Section consists of Multiple Choice Questions (MCQs) that must be answered on a mark reading sheet (MRS). If for whatever reason you do not receive a MRS you are welcome to answer the MCQs on your answer booklet.

##### **Section B**

Section B consists of 6 questions.

You have a choice between Q1 and Q2. Do not answer both questions. Kindly read about your options either in your Tut Letter 101 or my communication on this site about what to study for the exam.

Questions 3, 4, 5 and 6 are compulsory for all students.

##### **Test Yourself Questions at the end of each Chapter in the Study Guide**

Please go through all of the Test Yourself Questions at the end of every Chapter in your study guide and the questions given in your tut letters. This can prove to be very beneficial to you for revision.

##### **Study guide and what to study for the examinations**

The study guide constitutes the basis of your study, and it is important that you get to know this primary source thoroughly. Please read the introductory chapter of this study guide "How to use this guide" carefully, since it contains a detailed explanation of the working procedure adopted throughout the guide. The first chapter dealing with "The South African legal system" should be read very attentively for background information. However, there will be no questions on that chapter in the examination.

When looking at the table of contents of your study guide, you will notice that the guide consists of FIVE LEARNING UNITS. Each Learning Unit covers a specific relationship dealing with the free dissemination of information. These Learning Units can be studied in any sequence.

Your study guide is not reprinted every year. You will notice that **CERTAIN SECTIONS OF THE STUDY GUIDE ARE EXCLUDED FOR EXAMINATION PURPOSES**. We believe that, although it is important for students to pass the examination, it is even more important that they obtain information they can use after they have passed the exam. The study material which is excluded for examination purposes must therefore be read very attentively, although there will be no questions on this in the exam.

To demarcate the remaining part of the study material even further, we have decided to give you two options for exam purposes. Select the option that best suits your interests and the career which you follow or plan to follow:

**Option A** includes Learning Units 1, 2 and 3.

**Option B** includes Learning Units 2, 3, 4 and 5.

**In other words:** Learning Units 2 and 3 are compulsory for all students. In addition to Learning Units 2 and 3, a student must furthermore study either Learning Unit 1 (option A), or alternatively Learning Units 4 and 5 (option B).

In the examination paper there will be a number of questions relating to Learning Unit 2 and 3, which will be compulsory to answer. However apart from these questions, there will be a further **two** questions, of which students should choose only **one** to answer.

**More specifically please take note of the following when you are studying for the exams:**

**Where you see this grey line** (throughout the study guide) it means that that section **need not be studied** for the purpose of the examinations BUT you must read it for additional information. If it does not appear so in your study guide please do not worry and take careful note of the following:

#### **Regarding Chapter 1**

The aim of the first chapter of this learning material is to show you how the legal system in South Africa is made up, and how it functions. **It is not necessary to study the whold of the first chapter for examination purposes** — There will be no questions on that chapter in the examination. It is however, extremely important that you read Chapter 1 very attentively, because the information in the rest of the study guide will build on the information in Chapter 1. Various terms which are explained in this first chapter, will not be explained again in the learning material.

#### **Regarding Chapter 2**

It is not necessary to study sections 2.1 and 2.5. Merely read these sections for background and additional information. However, the rest of the chapter must be studied for purposes of the examination.

#### **Regarding Chapter 3**

It is not necessary to study section 3.6. Merely read this section for background and additional information. However, the rest of the chapter must be studied for purposes of the examination.

#### **Regarding Chapter 4**

All information must be studied for the purposes of the examination.

#### **Regarding Chapter 5**

All information must be studied for the purposes of the examination.

#### **Regarding Chapter 6**

It is not necessary to study sections 6.9 AND 6.11.8. It is included for the sake of completeness. The rest of the chapter must be studied for purposes of the examination.

#### **Regarding Chapter 7**

All information must be studied for the purposes of the examination.

#### **Regarding Chapter 8**

All information must be studied for the purposes of the examination.

#### **Regarding Chapter 9**

All information must be studied for the purposes of the examination.

**Regarding Chapter 10**

All information must be studied for the purposes of the examination.

**Regarding Chapter 11**

All information must be studied for the purposes of the examination.

**Regarding Chapter 12**

Only section 12.1 may not be studied for the purpose of the examinations. Merely read this section for background and additional information. However, the rest of the chapter must be studied for purposes of the examination.

**Regarding Chapter 13**

All information must be studied for the purposes of the examination.

**Regarding Chapter 14**

All information must be studied for the purposes of the examination.

**Regarding Chapter 15**

All information must be studied for the purposes of the examination.

**Regarding Chapter 16**

All information must be studied for the purposes of the examination.

**Regarding Chapter 17**

All information must be studied for the purposes of the examination.

**Regarding Chapter 18**

All information must be studied for the purposes of the examination

**Regarding Chapter 19**

All information must be studied for the purposes of the examination

**REMEMBER YOU NEED NOT STUDY ALL THE CHAPTERS AS YOU HAVE A CHOICE FOR THE EXAMINATION.**

**5 CONCLUDING REMARKS**

We assume that most of you have started with your preparation for the examination. Please do not underestimate the scope of this course and, if you have not yet started an intensive study of the work, get down to it immediately.

We wish you every success in your examination.

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