



BOARD OF STUDIES
NEW SOUTH WALES

HIGHER SCHOOL CERTIFICATE EXAMINATION

2000
LEGAL STUDIES
2/3 UNIT (COMMON)

*Time allowed—Three hours
(Plus 5 minutes reading time)*

DIRECTIONS TO CANDIDATES

- You may ask for extra Writing Booklets if you need them.

Section I (20 marks)

- Attempt ALL questions.
- Complete your answers in either blue or black pen on the Answer Sheet provided.

Section II (50 marks)

- Attempt TWO questions, each from a different Option.
- Answer each question in a SEPARATE Writing Booklet.

Section III (30 marks)

- Attempt ONE question.
- Answer the question in a SEPARATE Writing Booklet.

SECTION I

(20 Marks)

Attempt ALL questions.

Instructions for answering multiple-choice questions

- Complete your answers in either blue or black pen.
- Select the alternative A, B, C or D that best answers the question. Fill in the response oval completely.

Sample: $2 + 4 =$ (A) 2 (B) 6 (C) 8 (D) 9
A B C D

If you think you have made a mistake, put a cross through the incorrect answer and fill in the new answer.

A B C D

If you change your mind and have crossed out what you consider to be the correct answer, then indicate the correct answer by writing the word **correct** and drawing an arrow as follows.

A B C D
correct
↖

- 1** Mary visits John at his home. John's dog bites Mary. Mary's action for damages for personal injury must be proved

 - (A) beyond reasonable doubt.
 - (B) on the balance of probabilities.
 - (C) by the local council's dog inspector.
 - (D) by the police prosecutor.

- 2** The NSW Parliament passes a law prohibiting smoking in public places. Vijay smokes in a park. Which of the following is true?

 - (A) He cannot be prosecuted because the law is unjust.
 - (B) He cannot be prosecuted because he is unaware of the law.
 - (C) He can be prosecuted because smoking is a health hazard.
 - (D) He can be prosecuted because the law prohibits smoking in a public place.

- 3** If two parties to a disputed contract use Alternative Dispute Resolution (ADR) processes, which of the following would be used?

 - (A) Negotiation, mediation and conciliation.
 - (B) Litigation, arbitration and negotiation.
 - (C) Mediation, litigation and legal representation.
 - (D) Conciliation, conferencing and a court hearing.

- 4** The judicial arm of government is responsible for

 - (A) advising the Attorney-General.
 - (B) amending Acts.
 - (C) enacting legislation.
 - (D) interpreting statutes.

- 5** The doctrine of the separation of powers is concerned with

 - (A) how power is distributed among the Commonwealth and State Parliaments.
 - (B) how power is distributed among the Governor-General and State Governors.
 - (C) how power is distributed among the legislature, executive and judiciary.
 - (D) how power is distributed among the Prime Minister and State Premiers.

- 6 The Electoral Act allows people whose religious beliefs prevent them voting on an election day to vote on an earlier day. This is an example of
- (A) a requirement of equity.
 - (B) a requirement of the common law.
 - (C) political and economic values influencing the law.
 - (D) social and cultural values influencing the law.
- 7 An international company is accused of bribing a member of the NSW Parliament. The conduct of the member of Parliament may be investigated by
- (A) a Senate Select Committee.
 - (B) the Independent Commission Against Corruption (ICAC).
 - (C) the Administrative Appeals Tribunal (AAT).
 - (D) the NSW Ombudsman.
- 8 The Commonwealth Government has passed a valid law to require all international passengers arriving in Sydney to be vaccinated. The NSW Government has passed a law exempting Olympic officials from the vaccination requirement. The NSW law will be
- (A) invalid because it is inconsistent with the Commonwealth law.
 - (B) invalid because it discriminates in favour of Olympic officials.
 - (C) valid because it has been passed by the NSW Parliament.
 - (D) valid because Sydney is the Olympic city.
- 9 Kay is found guilty of shoplifting. On the basis of her previous good behaviour, the court decides not to record the conviction. The court's decision is an example of
- (A) mandatory sentencing.
 - (B) minimum sentencing.
 - (C) discretionary power.
 - (D) equitable duty.

- 10** The notion of ministerial responsibility involves
- (A) ministers attending all Cabinet meetings.
 - (B) ministers voting as their political party directs.
 - (C) ministers being accountable to the voters in their electorates.
 - (D) ministers being accountable to the Parliament for their decisions.
- 11** In a society that conforms to the rule of law
- (A) everyone must obey the same laws.
 - (B) everyone has the right to be heard.
 - (C) the laws are always made by courts.
 - (D) the laws always reflect community values.
- 12** Enforcing and administering the policies of government are the functions of the
- (A) Parliament.
 - (B) judicial arm of government.
 - (C) police force.
 - (D) executive arm of government.
- 13** Judy is a judge. She is hearing a matter involving a company to which she gave legal advice when practising as a lawyer. Which of the following applies?
- (A) The rules of standing require her to continue to hear the case because she has jurisdiction.
 - (B) The rules of standing require her to step down because she has a conflict of interest.
 - (C) The principles of natural justice require her to disclose her interest, and to disqualify herself from hearing the case.
 - (D) The principles of natural justice require her to disclose her interest, but to continue hearing the case.

- 14** Colonial courts justified the application of terra nullius because the Aboriginal and Torres Strait Islander peoples
- (A) had customary laws.
 - (B) farmed the land.
 - (C) did not have a recognised legal system.
 - (D) protected the environment.
- 15** The Federal Commissioner of Taxation wishes to make new regulations about the deadline for income tax returns. The Commissioner's authority to make regulations comes from
- (A) taxation legislation enacted by the Commonwealth Parliament.
 - (B) taxation legislation enacted by the NSW Parliament.
 - (C) the Income Tax Rules and Procedures.
 - (D) recommendations of the Australian Taxation Law Reform Commission.
- 16** Public interest groups in NSW wish to make a formal challenge to the Federal Government's spending on the Navy. A formal means of challenging this expenditure is through
- (A) the New South Wales Ombudsman.
 - (B) the Administrative Appeals Tribunal.
 - (C) the New South Wales Governor.
 - (D) a Senate Select Committee.
- 17** Which of the following is a feature of private law?
- (A) It can be enforced by the Privacy Commissioner.
 - (B) It can be overridden by Public law.
 - (C) It deals with disputes between citizens.
 - (D) It deals with disputes between the police and citizens.
- 18** The legal concept of natural justice has the following two parts:
- (A) decision-makers should be unbiased, and all persons have access to the courts.
 - (B) decision-makers should be unbiased, and every person has the right to be heard.
 - (C) every person has the right to be heard, and every person is equal before the law.
 - (D) every person has the right to be heard, and every person has the right to legal representation.

- 19** A NSW Court has found Jane guilty of murder. Her first appeal will be heard by
- (A) the NSW Criminal Justice Commission.
 - (B) the NSW Court of Criminal Appeal.
 - (C) a single judge of the Federal Court.
 - (D) a single judge of the High Court.
- 20** A change to the Commonwealth Constitution requires
- (A) a Constitutional Convention.
 - (B) a referendum to be passed.
 - (C) a recommendation of the High Court.
 - (D) a decision by the Governor-General.

SECTION II—OPTIONS**Marks**

(50 Marks)

Attempt TWO questions, each from a different Option.

Each question is worth 25 marks.

Answer each question in a SEPARATE Writing Booklet.

CONSUMERS AND THE LAW**EITHER****QUESTION 21****25**

David is eighteen and purchases his first car. David borrows money to finance his purchase. After six months, the car develops mechanical problems.

Refer to the above statement, and evaluate the effectiveness of the law in protecting the rights of consumers.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- identify the rights and remedies of borrowers and credit providers;
- discuss the methods of redress for consumers who experience problems with goods they have purchased.

OR

QUESTION 22**Marks**

Start each part of this question on a new page.

The common law has not provided adequate protection for consumers. This is why governments have found it necessary to pass consumer protection legislation.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | | |
|-----|---|-----------|
| (a) | What is meant by <i>freedom of contract</i> , and <i>privity of contract</i> ? | 5 |
| (b) | Outline and explain how the common law protects consumers against harsh and unconscionable conduct. | 8 |
| (c) | How effective has consumer protection legislation been in protecting consumers' rights? | 12 |

Please turn over

ENVIRONMENT AND THE LAW**Marks**

EITHER

QUESTION 23**25**

Because the States are responsible for land management issues, government policies can be conflicting. This can lead to land management policies that reflect a lack of respect for biodiversity, with possible results being increased salinity and erosion.

Discuss this statement, and evaluate the effectiveness of the legal system in providing environmental protection.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- describe how perceptions of the environment have changed;
- discuss the effect of the fragmentation of legal authority in environmental protection.

OR

QUESTION 24

Start each part of this question on a new page.

As we enter the new millennium, the pressure to protect the environment is increasing. In Australia, which is both a continent and a nation, there is a special duty to protect our unique and diverse environmental heritage.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | | |
|-----|---|-----------|
| (a) | What are the sources of environmental law in Australia? | 5 |
| (b) | Outline the development of environmental law in Australia in the twentieth century. | 8 |
| (c) | Evaluate the responsiveness of the law to the conflicting demands of economic development and environmental protection. | 12 |

FAMILY AND THE LAW**Marks**

EITHER

QUESTION 25**25**

The Property (Relationships) Legislation Amendment Act 1999 (NSW), is a significant development for gay rights. It is a reflection of a moral commitment to the human rights of all citizens. It gives property rights to persons who cohabit in domestic relationships, other than marriage.

Attorney-General (NSW), 1999

From an address by the NSW Attorney-General on 25 August 1999, reproduced in *Alternative Law Journal* vol 24 no 5, 1999, pp 247-248. Reproduced with permission.

Discuss this statement, and evaluate the effectiveness of the legal system in recognising and protecting the interests of parties in domestic relationships.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- describe the types of family or domestic relationships which people enter;
- explain the extent to which the legal system provides for and protects parties to domestic relationships.

OR

QUESTION 26

Start each part of this question on a new page.

All children have the right to belong to a family, the basic unit of society as recognised by international law.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | |
|--|-----------|
| (a) What are the different functions of the family as dealt with by the law? | 5 |
| (b) To what extent does Australian law reflect the United Nations Convention on the Rights of the Child? | 8 |
| (c) Evaluate the effectiveness of the legal system in addressing the needs of children. | 12 |

HOUSING AND THE LAW**Marks**

EITHER

QUESTION 27**25**

There is no simple solution to the problem of homelessness. However, governments could probably do much more.

Discuss this statement, and evaluate the effectiveness of the legal system in assisting people to find shelter.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- discuss the right to shelter, and the role of public housing authorities in satisfying that right;
- evaluate the legal processes available to protect the rights of people who live in special accommodation, including aged care accommodation, caravan parks and squats.

OR

QUESTION 28

Start each part of this question on a new page.

Australians, confident in the healthy state of the economy, are diving into the real estate market as never before, with a record number of new home loans taken out this year.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- (a) What types of title to property can Australians acquire? **5**
- (b) What are the advantages and disadvantages of home ownership, compared with leasing? **8**
- (c) Evaluate the legal processes available to protect the rights of purchasers and tenants. **12**

THE WORKPLACE AND THE LAW**Marks**

EITHER

QUESTION 29**25**

The traditional employer-employee model is becoming increasingly irrelevant. Organisations need flexibility, and workers need security, opportunities and life choices.

Discuss this statement, and evaluate the effectiveness of the legal system in responding to change in the workplace.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- describe the factors which contribute to change in the workplace;
- evaluate the responsiveness of the legal system to changes in the employer-employee relationship.

OR

QUESTION 30

Start each part of this question on a new page.

Jim is forced by his employer to retire from his employment. He is upset and wishes to seek legal redress.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | | |
|-----|---|-----------|
| (a) | What constitutes <i>wrongful dismissal</i> ? | 5 |
| (b) | What are the roles of legislation and employment contracts in ensuring equal treatment of workers? | 8 |
| (c) | Evaluate the effectiveness of the legal system in providing redress for workers who claim <i>wrongful dismissal</i> . | 12 |

SECTION III—CASE STUDIES**Marks**

(30 Marks)

Attempt ONE question.

Answer the question in a SEPARATE Writing Booklet.

ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

EITHER

QUESTION 31**30**

To deprive an Aboriginal of his traditional right to hunt for bush tucker . . . on his own country and then to convict and punish him for doing what Aborigines had previously been encouraged to do would be an intolerable injustice. It adds the insult of criminal conviction and punishment to the injustice of the loss of traditional rights.

BRENNAN J, in *Walden v Hensler*, 1987

Quote from *Walden v Hensler*, (1987) 163 CLR 561, 578. Reproduced with the permission of the High Court of Australia

Discuss this statement, and evaluate the effectiveness of the legal system in responding to the pursuit of justice by Aboriginal and Torres Strait Islander peoples.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- explain the term *customary law*;
- outline the ways in which Australian criminal and civil laws have recognised Aboriginal and Torres Strait Islander customary law;
- evaluate the effectiveness of the criminal law and other legal mechanisms in providing justice for Aboriginal and Torres Strait Islander peoples.

OR

QUESTION 32**Marks**

Start each part of this question on a new page.

A stolen generation representative has called for the settlement of the more than 700 claims for compensation identified since the Bringing Them Home Report was published in 1997. The issues raised by the Report are powerful challenges to both State and Commonwealth governments.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | |
|---|-----------|
| (a) How has government policy towards Aboriginal and Torres Strait Islander peoples changed since 1992? | 4 |
| (b) Outline the roles of State and Commonwealth governments in developing law for Aboriginal and Torres Strait Islander peoples. | 6 |
| (c) Describe and discuss the mechanisms available to Aboriginal and Torres Strait Islander peoples for achieving justice. | 8 |
| (d) Evaluate the effectiveness of the Australian legal system in achieving justice for Aboriginal and Torres Strait Islander peoples. | 12 |

Please turn over

MIGRANTS**Marks**

EITHER

QUESTION 33**30**

Australia is a nation of immigrants. Many immigrants have been seen as undesirable at some time, but have later become highly regarded members of the Australian community.

Discuss this statement, and evaluate the effectiveness of the legal system in responding to people who are immigrants to Australia.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- outline the categories of migrants to Australia;
- identify the difficulties faced by migrants in obtaining access to employment, housing, social services and the law;
- evaluate the ways in which the Australian legal system has responded to the needs of migrants.

OR

QUESTION 34

Start each part of this question on a new page.

In Australia there is little public sympathy for refugees or illegal entrants, even though the government accepts about 10 000 refugees each year.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | | |
|-----|--|-----------|
| (a) | What is a <i>refugee</i> ? | 4 |
| (b) | Describe the problems faced by refugees and illegal entrants after their arrival in Australia. | 6 |
| (c) | Outline the difficulties faced by refugees and illegal entrants in obtaining administrative review of immigration decisions. | 8 |
| (d) | Evaluate the effectiveness of the legal system in responding to the needs of refugees and illegal entrants. | 12 |

WOMEN**Marks****EITHER****QUESTION 35****30**

The Human Rights and Equal Opportunity Commission Report 'Pregnant and Productive' (1999), found that many women are delaying having children, or choosing not to have children at all because of the economic disadvantage it involves. Fifteen per cent of complaints to the Sex Discrimination Commissioner were about discrimination because of pregnancy. The Report recommended the introduction of compulsory maternity leave, to conform with the Convention on the Elimination of All Forms of Discrimination Against Women.

Discuss this statement, and evaluate the effectiveness of the Australian legal system in addressing the problems of women in the workplace.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- outline the historical roles of, and attitudes to, women in the workplace;
- describe the legal changes which have affected women in the workplace;
- assess the effectiveness of the legal system in responding to the changing role of women in the workplace.

OR**QUESTION 36**

Start each part of this question on a new page.

Women are often ignorant of their rights or of the means to enforce them, in many cases because they have little money and are isolated from public life. Insensitive government officials and lack of child-care facilities also contribute to the barriers which prevent women from obtaining legal representation, and thus from gaining justice.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- | | |
|---|-----------|
| (a) What historical factors contributed to women being regarded as 'second-class citizens'? | 4 |
| (b) Explain the ways in which the position of women in society and in the family has changed. | 6 |
| (c) Describe the legal means available to women to protect themselves from violent partners. | 8 |
| (d) Evaluate the effectiveness of the Australian legal system in providing access to justice for women. | 12 |

OTHER DISADVANTAGED PEOPLE**Marks**

EITHER

QUESTION 37**30**

It is a duty of a modern democracy to provide for its citizens who are disadvantaged by age, ill health, lack of education, or unemployment.

Discuss this statement, and evaluate the responsiveness of the legal system to problems faced by disadvantaged people.

Your answer should refer to the stimulus material, provide relevant information, and *at least*:

- explain why social security is necessary;
- discuss the problems of administering social security legislation;
- evaluate the effectiveness of social security legislation in responding to the needs of social security applicants.

OR

QUESTION 38

Start each part of this question on a new page.

Legal disadvantage takes many forms. Just laws will take into account the needs and interests of people who are vulnerable in everyday life and unable to influence law-makers directly.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions.

- (a) Explain when it is that a person lacks full *legal capacity*. **4**
- (b) Distinguish between the concepts of *mental illness* and *intellectual disability*. **6**
- (c) Discuss the role of people and institutions that protect people with mental illness and/or intellectual disability. **8**
- (d) Evaluate the effectiveness of the legal system in addressing the needs and interests of people with mental illness and/or intellectual disability. **12**

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