



HIGHER SCHOOL CERTIFICATE EXAMINATION

1998

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 blue or black pen, or in pencil 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.

Complete your answers in blue or black pen, or in pencil on the Answer Sheet provided.

Select the alternative A, B, C or D that best answers the question.

1. While shopping, a customer slips on a wet floor and breaks a leg. Who has standing to bring a civil action?
 - (A) The local council.
 - (B) The police.
 - (C) The shop-owner.
 - (D) The customer.

2. The principal role of the Office of the NSW Ombudsman is to investigate decisions of
 - (A) parliamentarians.
 - (B) public servants.
 - (C) judges.
 - (D) legislative committees.

3. The Australian Constitution divides power between
 - (A) the courts and the Parliament.
 - (B) the local councils and government departments.
 - (C) the Governor-General and the State Governors.
 - (D) the Commonwealth and the States.

4. The High Court of Australia has the power to
 - (A) amend invalid legislation.
 - (B) hear appeals.
 - (C) appoint all judges.
 - (D) amend the Constitution.

5. Persons who cause criminal damage to citizens or property are subject to
 - (A) private law.
 - (B) public law.
 - (C) administrative law.
 - (D) executive law.

6. The court system whereby a judge will decide an issue after evidence is presented by lawyers is known as the
- (A) inquisitorial system.
 - (B) judicial system.
 - (C) adversarial system.
 - (D) ecclesiastical system.
7. Mechanisms for administrative review have been set up as part of the
- (A) executive arm of the government.
 - (B) legislative arm of the government.
 - (C) parliamentary arm of the government.
 - (D) judicial arm of the government.
8. The Australian Federation was created by the
- (A) Federal Parliament.
 - (B) State Parliaments.
 - (C) Australian Constitution.
 - (D) Australia Acts.
9. The Australian Government signed the United Nations Universal Declaration of Human Rights. The effect of this is to
- (A) automatically grant to all persons in Australia basic human rights.
 - (B) allow the states to enact human rights legislation.
 - (C) automatically make human rights abuses punishable by criminal law.
 - (D) allow the Commonwealth to enact human rights legislation.
10. The NSW Parliament makes it a crime to have red hair. Elizabeth dyes her hair red. She is arrested. The court
- (A) must apply the law.
 - (B) can dismiss the charges because it is a bad law.
 - (C) must apply the rules of equity.
 - (D) can dismiss the charges because it is not a common law offence.
11. Equality before the law is part of the
- (A) notion of formal equality.
 - (B) rule of law.
 - (C) rules of equity.
 - (D) doctrine of natural justice.

- 12.** Under the Westminster system, ministers are responsible to the
- (A) Governor-General.
 - (B) Attorney-General.
 - (C) Parliament.
 - (D) Judiciary.
- 13.** The legal concept of natural justice has the following two parts:
- (A) decision makers should be unbiased and every person has the right to be heard.
 - (B) decision makers should be unbiased and all persons are equal before the law.
 - (C) every person has the right to be heard and the right to trial by jury.
 - (D) every person has the right to be heard and the burden of proof shall fall on the prosecution.
- 14.** Delegated legislation is made under power delegated by
- (A) common law.
 - (B) the Governor.
 - (C) courts.
 - (D) an Act of Parliament.
- 15.** The role of a jury in a criminal trial is to determine
- (A) punishment.
 - (B) the facts of the case.
 - (C) the admissibility of evidence.
 - (D) damages.
- 16.** Which of the following procedures can be used in alternative dispute resolution?
- (A) Negotiation, legal representation and conciliation.
 - (B) Negotiation, litigation and conciliation.
 - (C) Negotiation, mediation and arbitration.
 - (D) Negotiation, litigation and mediation.
- 17.** If Australia had a Bill of Rights its function would be to
- (A) protect the people against abuse of government power.
 - (B) ensure that common law rights are enforceable.
 - (C) protect all people from harsh and unjust contracts.
 - (D) ensure access to the International Court of Justice.

- 18.** The executive role of the Commonwealth Government is conducted by the
- (A) Parliament and the Governor-General.
 - (B) police and the State and Federal courts.
 - (C) Cabinet and the High Court.
 - (D) Governor-General, Ministers and public servants.
- 19.** A very large sum of damages has been awarded in a defamation action in the Supreme Court of NSW. An appeal can be taken to
- (A) the Full Court of the Federal Court of Australia.
 - (B) a single judge of the High Court of Australia.
 - (C) a single judge of the Federal Court of Australia.
 - (D) the Court of Appeal of the Supreme Court of NSW.
- 20.** The role of a law reform commission is to
- (A) help judges determine difficult cases.
 - (B) change existing laws and create new laws.
 - (C) report to and advise the government.
 - (D) draft legislation which governments must enact.

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**

The protection of consumers requires more than simply passing laws. Governments must ensure consumers are aware of their rights and are able to enforce those rights.

Discuss this 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 problems faced by consumers;
- discuss the forms of redress available to consumers.

OR

QUESTION 22

Start each part of this question on a new page.

Consumers enter into contracts every day. Many of the terms and conditions of those contracts remain invisible to the consumer.

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

- | | | |
|-----|--|-----------|
| (a) | What are the essential elements of a contract? | 4 |
| (b) | Why was it felt necessary for the law to add to the consumer's common law rights? | 9 |
| (c) | How effective are the processes available to consumers for resolving complaints against sellers? | 12 |

ENVIRONMENT AND THE LAW**Marks**

EITHER

QUESTION 23**25**

The need to integrate environmental considerations into all aspects of activity is being given increasing recognition by governments. The problems involved in finding effective and equitable ways to realise sustainable development are likely to occupy governments well into the twenty-first century.

Acknowledge: Environment Australia

Discuss this statement, and evaluate the effectiveness of the law in balancing the present and future use of resources.

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

- describe the role of the Commonwealth Government in protecting the environment;
- discuss the effectiveness of international agreements in preserving the global environment.

OR

QUESTION 24

Start each part of this question on a new page.

The development of environmental law requires consideration by today's lawmakers of the needs of those living in the world in the twenty-first century. All levels of government are challenged in meeting these needs as well as in trying to protect the environment and encourage economic growth.

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

- | | | |
|-----|--|-----------|
| (a) | What are the main sources of environmental law in Australia? | 4 |
| (b) | Describe the concerns of local and State governments with regard to the environment. | 9 |
| (c) | Evaluate the effectiveness of government measures in protecting the environment. | 12 |

FAMILY AND THE LAW**Marks**

EITHER

QUESTION 25**25**

The *Family Law Act 1975* (Cwlth) requires the Family Court to have regard to the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society.

Discuss this statement, and evaluate the effectiveness of the legal system in recognising, regulating and protecting the many types of families that exist.

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

- explain the formation and dissolution of marriages;
- discuss alternative family arrangements.

OR

QUESTION 26

Start each part of this question on a new page.

The *Family Law Act 1975* (Cwlth) provides that children have the right to know and be cared for by both parents.

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

- | | | |
|-----|--|-----------|
| (a) | What legal rights do parents have over their children? | 4 |
| (b) | How does the law deal with contact and care between parents and children where parents have divorced? | 9 |
| (c) | Evaluate the effectiveness of the law in balancing the rights of children with the obligations of parents. | 12 |

HOUSING AND THE LAW**Marks****EITHER****QUESTION 27****25**

Almost 15% of Australians are in a housing crisis, often unable to feed or clothe themselves after paying the rent. Public housing has not solved the problem and charities are having to care for the homeless and people who are struggling in the private rental market.

*Reprinted with permission of the Sydney Morning Herald © 1997
The Sydney Morning Herald*

Discuss this statement, and evaluate the effectiveness of the law in assisting those in a 'housing crisis'.

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;
- outline the special problems faced by the poor and disadvantaged in renting in the private market.

OR**QUESTION 28**

Start each part of this question on a new page.

Joanne lives in high density housing. She has been skateboarding in the common areas and neighbours have complained about the noise and damage she has caused to both common and private property.

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

- | | |
|--|-----------|
| (a) What are the advantages and disadvantages of medium and high density housing? | 4 |
| (b) Discuss the role of the body corporate in regulating shared spaces. | 9 |
| (c) Evaluate the effectiveness of the procedures available for settling disputes between neighbours. | 12 |

THE WORKPLACE AND THE LAW

Marks

EITHER

QUESTION 29

25

It is unlawful to dismiss a person on discriminatory grounds, including union membership or non-membership. In situations of both unfair and unlawful dismissal, the employer and employee must first attempt to negotiate the dispute.

*Reproduced with permission from HOT TOPIC:
Industrial Relations by Trish Luker (No 11, February 1997: 16)
published by the Legal Information Access Centre, Sydney, NSW*

Discuss this statement, and evaluate the effectiveness of the legal system in protecting the rights of employers and employees in the termination of employment.

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

- explain when employers have the right to dismiss an employee, and when it is unlawful;
- examine the factors that the Australian Industrial Relations Commission must consider when arbitrating claims of unfair and unlawful dismissal.

OR

QUESTION 30

Start each part of this question on a new page.

The *Workplace Relations Act 1996* (Cwlth) presents a new challenge to participants in the industrial relations system. The Act attempts to bring a new focus to industrial relations by introducing avenues for individualised bargaining and by restricting the role of third parties in regulating agreements.

*Reproduced with permission from 'The Workplace Relations Act:
a New Era for Industrial Relations' by Therese MacDermott in HOT TOPIC:
Industrial Relations (No 11, February 1997: 10)
published by the Legal Information Access Centre, Sydney*

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

- | | |
|--|-----------|
| (a) Outline the various forms of workplace bargaining. | 4 |
| (b) Describe the role of unions in the changing workplace. | 9 |
| (c) Evaluate the effectiveness of the legal system in protecting the rights of employees and employers in the workplace. | 12 |

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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



Sydney Morning Herald, April 1996

Refer to the above cartoon, and evaluate the effectiveness of the legal system in responding to the pursuit of justice for Aboriginal and Torres Strait Islander peoples.

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

- explain why Aboriginal and Torres Strait Islander peoples are disadvantaged;
- outline the problems associated with the division of responsibilities between State and Federal Governments;
- discuss the factors leading to the development of policy and laws aimed at achieving justice and equality for Aboriginal and Torres Strait Islander peoples.

OR

QUESTION 32**Marks**

Start each part of this question on a new page.

The Human Rights Commission's report, *Bringing Them Home* (1997), contains disturbing allegations of criminal conduct in the treatment of Aboriginal children who were removed from their families. There were some terrible things done and in any other situation there would be some belief that those responsible would be brought to justice.

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

- | | |
|---|-----------|
| (a) How did the status of Aboriginal and Torres Strait Islander peoples change after 1967? | 4 |
| (b) Outline the major inquiries held into the treatment of Aboriginal and Torres Strait Islander peoples. | 6 |
| (c) Describe the role of the reports from these major inquiries, and other mechanisms, for achieving justice for Aboriginal and Torres Strait Islander peoples. | 8 |
| (d) Evaluate the effectiveness of recent changes in the law to achieve justice, fairness, and equity for Aboriginal and Torres Strait Islander peoples. | 12 |

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MIGRANTS**Marks**

EITHER

QUESTION 33**30**

Identifying the problems faced by legal and illegal entrants to Australia is easy: identifying the solutions is not. Fundamental change is not a practicable option even if it were thought desirable.

Discuss this statement, and evaluate the effectiveness of the Australian legal system in responding to the differing needs of entrants to Australia.

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

- outline the Australian legal system's response to the cultural and social diversity of entrants to Australia;
- discuss the effectiveness of the Commonwealth Government's response to the problems faced by persons coming to live in Australia;
- evaluate the procedures available to entrants who wish to challenge decisions made about them.

OR

QUESTION 34

Start each part of this question on a new page.

The legal status of non-citizens in a community, as well as their acceptance by that community, is a measure of the extent to which that community observes human rights.

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

- | | | |
|-----|---|-----------|
| (a) | What is the legal status of migrants upon entry to Australia? | 4 |
| (b) | What problems do migrants face in achieving equality of opportunity in Australian society? | 6 |
| (c) | To what extent do the Australian civil and criminal legal systems recognise cultural diversity? | 8 |
| (d) | Evaluate the effectiveness of the Australian legal system in achieving justice, fairness and equity for migrants. | 12 |

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

Women today not only work outside the home, but they also usually come home to their second job of looking after the family. There are still many companies that remain unsupportive of flexible work arrangements. However, until men start pushing for, and taking advantage of family-friendly work practices, women's lives will not be equal.

Discuss this statement, and evaluate the effectiveness of the Australian legal system in achieving equality of outcomes for women.

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

- outline the traditional role of women in Australian society;
- discuss whether formal equality in the workplace achieves equality of outcomes for women;
- discuss the extent to which women's roles have changed in different forms of families and the workplace.

OR**QUESTION 36**

Start each part of this question on a new page.

Many women are the victims of domestic violence. Others are the victims of another form of violence, which is sexual harassment in the workplace. Some are subject to both forms of violence.

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

- | | |
|--|-----------|
| (a) What are the types of violence that women may encounter? | 4 |
| (b) Explain the role of women's support and welfare groups in protecting women from violence. | 6 |
| (c) Describe the impact of violence on women's lives. | 8 |
| (d) Evaluate the effectiveness of the Australian legal system in ensuring a woman's right to live and work free of violence. | 12 |

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OTHER DISADVANTAGED PEOPLE**Marks**

EITHER

QUESTION 37**30**

No single group can be expected to solve all the problems posed by mental illness. This is an area where the law and medicine meet. Psychologists, social workers, nurses, police and many more may be involved.

Discuss this statement, and evaluate the effectiveness of the Australian legal system in achieving justice for the mentally ill or intellectually disabled.

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

- outline the problems faced by the mentally ill;
- identify the rights affected by mental illness, including the problems caused by lack of legal capacity;
- discuss the roles of institutions and the people who provide protection for, and treatment of, mentally ill and intellectually disabled persons.

OR

QUESTION 38

Start each part of this question on a new page.

Few would disagree with the objective of equality before the law. The Australian legal system has, however, in the past been an instrument of discrimination and even oppression in relation to disadvantaged groups.

Refer to the above statement, and use your knowledge of the legal system to answer the following questions. In your answers, do NOT discuss women, migrants or Aboriginal and Torres Strait Islander peoples.

- | | |
|--|-----------|
| (a) What are the characteristics of disadvantaged people? | 4 |
| (b) What are the sources and forms of discrimination faced by disadvantaged people? | 6 |
| (c) Describe how society might abuse the rights of disadvantaged people. | 8 |
| (d) Evaluate the effectiveness of the legal system in protecting disadvantaged people. | 12 |

End of paper