

BOARD OF STUDIES  
NEW SOUTH WALES

HIGHER SCHOOL CERTIFICATE EXAMINATION

1999

# 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.



- 1** Stephen steals a video game from a shop. The case against him will be presented by the

  - (A) police who arrested him.
  - (B) magistrate.
  - (C) shop owner.
  - (D) police prosecutor.
  
- 2** Customary Law of Aboriginal and Torres Strait Islander peoples is

  - (A) a result of the Mabo decision.
  - (B) written down in Commonwealth statutes.
  - (C) always applied by federal courts.
  - (D) a reflection of tradition and past practices.
  
- 3** A single judge of the Federal Court of Australia has found that Bloggs Ltd has engaged in unlawful behaviour. Bloggs Ltd's first appeal will be heard by

  - (A) the full court of the Supreme Court of NSW.
  - (B) a single judge of the Supreme Court of NSW.
  - (C) the full court of the Federal Court of Australia.
  - (D) the High Court of Australia.
  
- 4** A republican system of government for Australia could be established by

  - (A) changing the Constitution using a referendum.
  - (B) an Act of the Commonwealth Parliament.
  - (C) Acts of state parliaments.
  - (D) holding a Constitutional Convention.
  
- 5** Hodda's company was not successful in winning a government contract. She is able to gain access to the records influencing this decision through

  - (A) the Department of Industry and Commerce.
  - (B) the State Public Service under the Freedom of Information Act.
  - (C) a Member of Parliament under the Electoral Act.
  - (D) the Business Council of Australia.

- 6** The Friends of Sydney Harbour Bridge decides to challenge informally the decision of the NSW Government to demolish the bridge and replace it with an environmentally friendly tunnel. An informal challenge will
- (A) guarantee success in stopping the proposal.
  - (B) give them the legal right to stop the proposal.
  - (C) be quick, cheap and attract publicity.
  - (D) stop anyone taking the matter to court.
- 7** When decision makers are unbiased and every person has the right to be heard, this reflects the
- (A) doctrines of equity.
  - (B) legal concept of natural justice.
  - (C) doctrine of the onus of proof.
  - (D) legal concept of the social contract.
- 8** A minister in the NSW Government has misled parliament over expenditure by her department. Her resignation is in line with the
- (A) notion of parliamentary privilege.
  - (B) Electoral Act 1918 (Cth).
  - (C) notion of ministerial responsibility.
  - (D) Ministerial Responsibilities Act 1901 (NSW).
- 9** The Children (Parental Responsibilities) Act 1996 (NSW) allows the police to pick up young people who are in public places after midnight. This legislation reflects
- (A) the values of judges influencing the development of the law.
  - (B) a development of the notion of equality.
  - (C) social values influencing the development of the law.
  - (D) the development of the common law.
- 10** Individuals who are citizens of a state have a range of entitlements. One of these is to have
- (A) their needs for shelter met.
  - (B) the laws of that state applied to them in other countries.
  - (C) their needs for health care met.
  - (D) the protection of the state in their daily lives.

- 11** Quong, a Commonwealth public servant, misses out on a promotion. He can challenge this decision by taking an action to the
- (A) Federal Court of Australia.
  - (B) Administrative Appeals Tribunal.
  - (C) Human Rights and Equal Opportunity Commission.
  - (D) Commonwealth Ombudsman.
- 12** The Governor-General and the trial judge discuss a case that will be decided next week. This is a problem under the doctrine of
- (A) the rule of law.
  - (B) the division of powers.
  - (C) the separation of powers.
  - (D) human rights.
- 13** A rice grower was granted a court order to stop a factory from dumping toxic waste products into local waterways. This order is called
- (A) an injunction.
  - (B) specific performance.
  - (C) a protection order.
  - (D) a restraining order.
- 14** Individuals surrender some personal freedoms in return for the protection of the state. This is an example of
- (A) state sovereignty.
  - (B) a social contract.
  - (C) constitutional democracy.
  - (D) an enforceable contract.
- 15** Katherine is a prisoner in a NSW gaol. She has complained about conditions. The power to investigate her complaint is held by the
- (A) Independent Commission Against Corruption.
  - (B) NSW Ombudsman.
  - (C) Chief Magistrate of NSW.
  - (D) Administrative Appeals Tribunal.

- 16** In a society where everyone including government officials must obey the same laws, the society
- (A) conforms to the rules of international law.
  - (B) is a police state.
  - (C) is a constitutional monarchy.
  - (D) conforms to the rule of law.
- 17** The executive arm of government is responsible for
- (A) enacting legislation.
  - (B) enforcing and administering the policies of government.
  - (C) interpreting legislation.
  - (D) deciding the facts and applying the law.
- 18** The power to pass anti-discrimination legislation is an example of a concurrent power held by the Commonwealth and the States. An act to prevent discrimination on the basis of religion in NSW may be passed by
- (A) the Commonwealth Parliament, but only if the NSW Parliament has not exercised the power.
  - (B) both the NSW and Commonwealth Parliaments. The NSW legislation may override the Commonwealth legislation.
  - (C) both the NSW and Commonwealth Parliaments. The Commonwealth legislation may override the NSW legislation.
  - (D) the NSW Parliament, but only if the Commonwealth Parliament has not already exercised the power.
- 19** Spectators at international sporting events stand for the national anthems of each team. This is done because it is a
- (A) custom.
  - (B) requirement of international law.
  - (C) duty.
  - (D) requirement of equity.
- 20** Jan is called for jury duty that will occur during her annual holidays. Jan ignores the summons and goes overseas. This is
- (A) a breach of her legal duty.
  - (B) her right as a free citizen.
  - (C) a breach of her moral duty.
  - (D) her right as a taxpayer.

**SECTION II—OPTIONS****Marks**

(50 Marks)

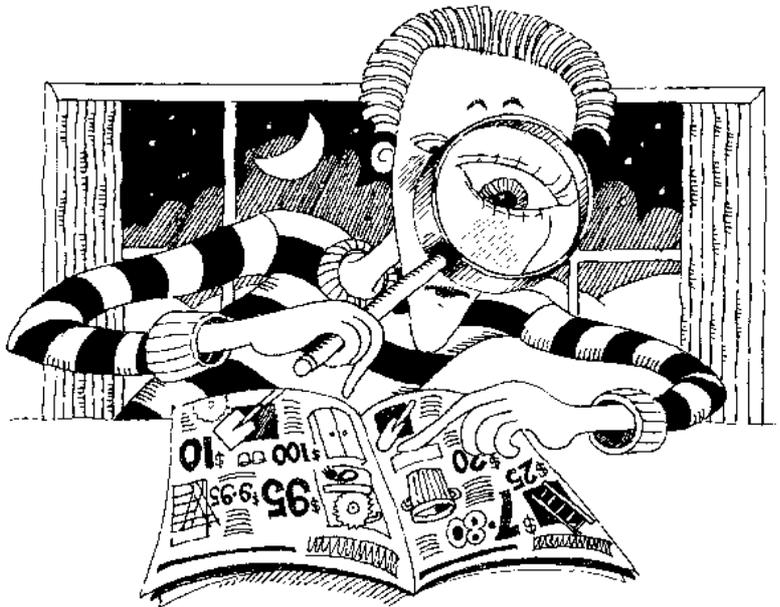
Attempt TWO questions, each from a different Option.

Each question is worth 25 marks.

Answer each question in a SEPARATE Writing Booklet.

**CONSUMERS AND THE LAW**

EITHER

**QUESTION 21****25**

Deceptive marketing practices are an important issue for consumer law in Australia.

Discuss this cartoon and statement and evaluate the effectiveness of the law in controlling deceptive marketing practices.

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

- identify the problems created by the notion of *caveat emptor*;
- discuss consumer legislation aimed at controlling advertising and marketing.

OR

**QUESTION 22****Marks**

*Start each part of this question on a new page.*

The aim of much consumer legislation has been to redress the inequality in bargaining power between the parties to consumer contracts.

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

- (a) What are the sources of inequality of bargaining power? **4**
- (b) Outline and explain the legislation that exists to redress inequality of bargaining power. **9**
- (c) How effective is the law in protecting consumers from the problems caused by inequality of bargaining power? **12**

**ENVIRONMENT AND THE LAW****Marks**

EITHER

**QUESTION 23****25**

In November 1998, angry residents of suburban Sydney rallied to protest the sale of publicly owned waterfront land to commercial interests.

Discuss this statement, and evaluate the effectiveness of the law in balancing the rights and interests of various parties, while protecting the environment.

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

- describe the role of local and state governments in protecting the environment;
- discuss the areas of conflict that may exist between community, environmental and commercial interests.

OR

**QUESTION 24**

*Start each part of this question on a new page.*

The common law has been concerned only with the rights of landowners. It does not impose a duty to preserve plant or animal species or natural beauty.

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

- |     |                                                                                        |           |
|-----|----------------------------------------------------------------------------------------|-----------|
| (a) | What factors have influenced the development of environmental law?                     | <b>4</b>  |
| (b) | Outline the rights and duties conferred on owners and users of land by the common law. | <b>9</b>  |
| (c) | How effective has the common law been in protecting the environment?                   | <b>12</b> |

**FAMILY AND THE LAW****Marks**

EITHER

**QUESTION 25****25**

Children may come to the attention of child welfare authorities because of their own anti-social behaviour or because they have been abused or neglected by their parents.

Discuss this statement, and evaluate the effectiveness of the family law system in recognising and protecting the interests of children within a family.

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

- explain the extent to which Australian family law provides for and protects the rights of children;
- discuss the role of the law in meeting the needs of children in trouble and dealing with crises in family relationships.

OR

**QUESTION 26**

*Start each part of this question on a new page.*

A marriage is defined as: ‘the union of a man and a woman, voluntarily entered into, to the exclusion of all others for life’.

*Hyde v Hyde and Woodmansee, 1866*

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

- |     |                                                                                                                                       |           |
|-----|---------------------------------------------------------------------------------------------------------------------------------------|-----------|
| (a) | What are the formal requirements for a valid marriage?                                                                                | <b>4</b>  |
| (b) | Outline and discuss the legal issues arising from alternative family arrangements.                                                    | <b>9</b>  |
| (c) | Evaluate the effectiveness of the law in protecting the interests of parties to formal marriages and alternative family arrangements. | <b>12</b> |

**HOUSING AND THE LAW****Marks**

EITHER

**QUESTION 27****25**

Bianca and Andrew have exchanged contracts for the purchase of their first home. Before the conveyance is complete, a number of legal issues will need to be considered.

Discuss this statement, and evaluate the procedures by which the law assists with the transfer of title to property.

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

- identify and explain the sources of assistance and advice available to Bianca and Andrew;
- outline the advantages and disadvantages of mortgages compared with other forms of finance. Comment on the manner in which Bianca and Andrew can protect their legal interest and investment.

OR

**QUESTION 28**

*Start each part of this question on a new page.*

Helen and Jack are public housing tenants in New South Wales. They received notice from the Department of Housing that they must leave their house within sixty days. No reasons were stated in the notice.

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

- |     |                                                                                                                                                                                   |           |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| (a) | What are the rights and responsibilities of public housing tenants such as Helen and Jack?                                                                                        | <b>4</b>  |
| (b) | Discuss the role of administrative bodies such as the Residential Tenancies Tribunal and the Rental Bond Board in protecting the rights of tenants in public and private housing. | <b>9</b>  |
| (c) | Evaluate the effectiveness of the law in protecting the security of tenure of leasehold tenants in public and private housing.                                                    | <b>12</b> |

## THE WORKPLACE AND THE LAW

Marks

EITHER

QUESTION 29

25



WorkCover NSW says: 'We're serious about work safety'.  
It urges employers and employees to promote, maintain and improve workplace safety.

Discuss this cartoon and statement, and evaluate the effectiveness of the legal system in ensuring workplace safety.

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

- explain the forms of workplace injuries and diseases and the legal remedies available to workers who are injured or ill;
- evaluate the responsiveness of the law to occupational health and safety issues and increased risks associated with technological change in the workplace.

OR

**QUESTION 30****Marks**

*Start each part of this question on a new page.*

The basic aim of industrial action is to exert pressure on the employer to act on a claim or dispute. To achieve this, unions can engage in a range of activities.

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

- |     |                                                                                                                                         |           |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------|-----------|
| (a) | What are the various forms of industrial action available when workplace negotiations break down?                                       | <b>4</b>  |
| (b) | What is the role of collective bargaining in the industrial relations environment?                                                      | <b>9</b>  |
| (c) | Evaluate the effectiveness of the legal system in balancing the rights and interests of employers and employees in industrial disputes. | <b>12</b> |

**Please turn over**

**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**

Under the Anti-Discrimination Act 1977 (NSW) it is unlawful to discriminate against a person or a group of persons because of race. The statute was amended in 1989 to make it an offence to vilify a race or culture of people publicly.

Aboriginal and Torres Strait Islander peoples are able to take action under this legislation to obtain an apology when vilified.

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*:

- define *racial vilification*;
- outline and explain the impact of racial vilification and other discriminatory conduct on the civil law rights of Aboriginal and Torres Strait Islander peoples;
- evaluate the effectiveness of anti-discrimination laws and other 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.*

For Aboriginal people to be successful anywhere in Australia, things don't go smoothly. Still stumbling blocks in the way. Fighting all the way. In 1967 was the referendum; we still got to fight. It is not easy to be a black fella.

YAMI LESTER, Aboriginal spokesperson, 1988

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

- (a) What rights do Aboriginal and Torres Strait Islander peoples have now which they did not have before 1967? **4**
- (b) What changes in the law have shaped and reflected the changing status of Aboriginal and Torres Strait Islander peoples in Australia? **5**
- (c) Describe and discuss the stumbling blocks or obstacles to equality that still exist for Aboriginal and Torres Strait Islander peoples. **9**
- (d) Evaluate the effectiveness of the legal system in recognising the traditions, language and culture of Aboriginal and Torres Strait Islander peoples. **12**

**Please turn over**

**MIGRANTS****Marks**

EITHER

**QUESTION 33****30**

The control of illegal migration is a major concern for the Australian Government. The development of the law in this area shows a progressive toughening in the Government's approach to those who break immigration laws.

Discuss this statement, and evaluate the effectiveness of the legal system in responding to people who are refugees or illegal entrants to Australia.

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

- outline the special criminal law processes that can be used to control illegal entrants;
- discuss the problems that might affect the access to the courts of people who are illegal entrants or refugees;
- evaluate the procedures available to refugees or illegal entrants who wish to challenge decisions made about them.

OR

**QUESTION 34**

*Start each part of this question on a new page.*

Australia's immigration laws cannot be understood fully without some appreciation of the history of migration to Australia and of how attitudes to immigration have, and have not, changed over the years.

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

- |                                                                                         |           |
|-----------------------------------------------------------------------------------------|-----------|
| (a) List and explain the categories of migrants to Australia.                           | <b>4</b>  |
| (b) What changes in Australian attitudes to migrants have occurred since 1901?          | <b>5</b>  |
| (c) Describe the problems migrants face in Australian society.                          | <b>9</b>  |
| (d) Evaluate the responsiveness of the legal system to the differing needs of migrants. | <b>12</b> |

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

There are a variety of reasons why a victim of sexual harassment may not report it. Victims might not know their rights, particularly if they belong to under-represented groups such as migrants or Aborigines. Sexual harassment may be so common in workplaces, such as hotels and bars, that workers are expected to accept it.

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 changing roles of women at work in Australia;
- discuss the problems that women may encounter in the workplace;
- assess the effectiveness of the legal and non-legal responses to problems faced by women in the workplace.

OR

**QUESTION 36**

*Start each part of this question on a new page.*

It is over a century since women living in Australia first achieved basic political rights. Yet one hundred years later, women still find themselves fighting for equality in many respects.

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

- |     |                                                                                                                                                     |           |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| (a) | What rights do women in Australia have now that they did not have before the 1890s?                                                                 | <b>4</b>  |
| (b) | What legal changes have shaped and reflected the changing role of women?                                                                            | <b>5</b>  |
| (c) | Describe how economic and social pressures on women affect their right to equality.                                                                 | <b>9</b>  |
| (d) | Evaluate the effect of gender bias in the culture, processes and practices of the legal system on women's pursuit of equality in Australia in 1999. | <b>12</b> |

**OTHER DISADVANTAGED PEOPLE****Marks**

EITHER

**QUESTION 37****30**

People are people. Some people have disabilities. People with disabilities should be judged by what they can do and not by what they cannot do.

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

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

- define the meaning of *full legal capacity*;
- discuss the problems faced by people with intellectual disabilities and mental illness;
- assess the effectiveness of the legal system in guaranteeing the rights of people with intellectual disabilities and mental illness.

OR

**QUESTION 38**

*Start each part of this question on a new page.*

The law dealing with social welfare has developed extensively. But this means little if the law is remote, or if lack of access to life chances, or inadequate income still produce disadvantage.

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

- |     |                                                                                                                   |           |
|-----|-------------------------------------------------------------------------------------------------------------------|-----------|
| (a) | List and explain the categories of social security applicants.                                                    | <b>4</b>  |
| (b) | What problems of social security applicants has legislation tried to address?                                     | <b>5</b>  |
| (c) | Describe the ways in which the legislation responds to the disadvantages faced by social security applicants.     | <b>9</b>  |
| (d) | Evaluate the influence of community attitudes towards social security applicants on law makers and law enforcers. | <b>12</b> |

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