



B O A R D O F S T U D I E S
NEW SOUTH WALES

2004

HIGHER SCHOOL CERTIFICATE
EXAMINATION

Legal Studies

General Instructions

- Reading time – 5 minutes
- Working time – 3 hours
- Write using black or blue pen
- Write your Centre Number and Student Number at the top of page 9

Total marks – 100

Section I Pages 2–10

25 marks

This section has two parts, Part A and Part B

- Allow about 45 minutes for this section

Part A – 15 marks

- Attempt Questions 1–15

Part B – 10 marks

- Attempt Question 16

Section II Pages 11–12

25 marks

- Attempt Question 17
- Allow about 45 minutes for this section

Section III Pages 13–15

50 marks

- Attempt TWO questions from Questions 18–25, each from a different Focus Study
- Allow about 1 hour and 30 minutes for this section

Section I — Law and Society

25 marks

Allow about 45 minutes for this section

Part A – 15 marks

Attempt Questions 1–15

Use the multiple-choice answer sheet.

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** What is precedent?
- (A) It is a doctrine of international law.
 - (B) It is a doctrine that is mandatory for police to follow.
 - (C) It is a doctrine that helps achieve consistency in the law.
 - (D) It is a doctrine for interpreting the Australian Constitution.
- 2** A citizen has had his unemployment benefit reduced. He takes action against the government to have it restored.
- Which type of law best applies to this dispute?
- (A) Contract law
 - (B) Private law
 - (C) Public law
 - (D) Tort law
- 3** Which of the following is both a legally protected right in Australia and a human right?
- (A) Education for all
 - (B) Paid maternity leave
 - (C) Property ownership
 - (D) Suing for damages
- 4** Australia has ratified the Convention on the Status of Refugees. Kaia is seeking asylum in Australia to escape from her country of origin.
- Is Australia able to refuse Kaia's application for asylum?
- (A) Yes, because Australia is a sovereign nation
 - (B) Yes, because Australia does not have a bilateral treaty with Kaia's country
 - (C) No, because a refusal would breach international law
 - (D) No, because the Bill of Rights in Kaia's country would protect her interests

- 5 Without a Bill of Rights, by what means are human rights embodied and protected under Australian law?
- (A) Referendum
 - (B) Statute law
 - (C) Trade unionism
 - (D) Universal education
- 6 When are disputes over the human rights of an individual within Australia best protected by international treaties?
- (A) When the High Court hears the dispute after the Commonwealth Government has ratified the treaty
 - (B) When the High Court hears the dispute after Australia has voted for the treaty in the United Nations
 - (C) When the International Court of Justice hears the dispute between the Australian Government and the individual
 - (D) When the High Court hears the dispute after the Commonwealth Parliament has incorporated the treaty into our domestic law
- 7 Hank, an American citizen, has been held without charge by the NSW police for three weeks for possession of a firearm. His family considers this a breach of his human rights and seeks his release.
- Which of the following will be the most effective means of securing his release?
- (A) The common law
 - (B) The Australian Constitution
 - (C) The American Bill of Rights
 - (D) The Universal Declaration of Human Rights
- 8 In relation to domestic and international rights, which of the following statements is true?
- (A) Domestic rights must be enforced by the state.
 - (B) Domestic rights only apply to citizens of a country.
 - (C) International rights give some degree of legal protection.
 - (D) International rights must be enforced by the United Nations.

- 9** Why are non-legal measures often more effective than legal measures in addressing human rights issues?
- (A) Because of the operation of state sovereignty
 - (B) Because collective human rights override individual human rights
 - (C) Because non-legal measures can always be adapted to individual circumstances
 - (D) Because non-legal measures can bypass government processes and bureaucracies
- 10** Under international law, collective human rights have evolved with the aim of providing protection to which of the following?
- (A) A defined group of people within a state
 - (B) A group of people seeking refugee status
 - (C) Some individuals with grievances against a state
 - (D) An indigenous group seeking to establish a new and separate nation
- 11** Which of the following situations best illustrates the recognition and enforcement of human rights by the Australian legal system?
- (A) When a court orders the release from custody of a 15-year-old person
 - (B) When a court declares that protest action by animal rights activists is legal
 - (C) When the Australian Parliament passes a law that makes discrimination illegal
 - (D) When students are denied access to classes for two weeks because of vandalism
- 12** Kim injures Kath on their own property. Kath reports the incident to the police. As a result, Kim is charged and the matter goes to court.

From the information in this scenario, which of the following outcomes is possible under the Australian legal system?

- (A) Kim is acquitted because it is a private law matter.
- (B) Kim is convicted of a public law matter on private property.
- (C) Kath has the burden of proof in this public law matter.
- (D) Kath has the burden of proof in this property law matter.

- 13** Which of the following best describes the place of the doctrine of natural law in the Australian legal system?
- (A) It is used by courts to overturn statutes.
 - (B) It is used by the courts as the basis for the interpretation of statutes.
 - (C) It is used to support arguments based on ethics in favour of law reform.
 - (D) It is no longer relevant as Australia now has many different religious beliefs.
- 14** Which of the following is a characteristic of Aboriginal and Torres Strait Islander customary law recognised by the Australian legal system?
- (A) Native title
 - (B) Terra nullius
 - (C) Self-determination
 - (D) Ownership of land
- 15** Which of the following can best provide for the protection of human rights?
- (A) The Universal Declaration of Human Rights
 - (B) The existence of the rule of law in a particular country
 - (C) The existence of universal suffrage in a particular country
 - (D) The International Covenant on Civil and Political Rights

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Legal Studies

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Centre Number

Section I (continued)

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Student Number

Part B – 10 marks

Attempt Question 16

Answer the question in the spaces provided.

Marks

Question 16 (10 marks)

- (a) Outline the differences between the common law system and the civil law system.

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Question 16 continues on page 10

Question 16 (continued)

- (b) With reference to the characteristics of a just law, explain the existence of institutionalised inequality in the Australian legal system. **5**

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End of Question 16

Legal Studies

Section II — Focus Study – Crime

25 marks

Attempt Question 17

Allow about 45 minutes for this section

Answer the question in a writing booklet. Extra writing booklets are available.

Start each part of this question on a new page.

Question 17 (25 marks)

Please turn over

Question 17 (25 marks)

Crimes Old and New: A Day in the District Court

BY BRETT DARE, COURT REPORTER

In the first case of the day George was sentenced to 16 months gaol for stealing \$300 from an elderly woman. The offence occurred on a busy street and the police were on the spot in less than a minute. George will be released in 2 months having already served 14 months in custody awaiting trial.

At the end of this quick hearing George, who was unrepresented, made a confused and poorly prepared statement claiming that he needed the money to finance his alcohol addiction and to buy food. He claimed that his history of mental illness made it very hard to find work.

In a victim impact statement read out in court, the elderly woman told of her increased fear of leaving home and being in public places, which had affected her quality of life.

In sentencing George, the judge commented that, based on the case of *R v Grimes* and evidence before the court, she could see no option but to gaol George.

In the second case lasting the rest of the day and after a year's intensive investigation by the police, Fred was found guilty under the new *Computer Crimes Act 2003* of damaging the website of Big Bank. Fred hacked into the bank's website and put in a computer virus. Fred's lawyer told the court that Fred did not set out to steal and that he was part of an action group that believed that banks had too much power and needed to be taught a lesson.

This matter became public when all the account details of Big Bank's customers were shown on its website. The bank released a statement announcing that it would take legal action against Fred to recover the \$2 000 000 cost of fixing its website.

Fred was never placed in custody and will soon start his 180 hours of community service. He is afraid that he will never be able to work in the computer industry again and will be ruined by Big Bank's legal action to get its money back.

- | | | |
|-----|---|----|
| (a) | Identify TWO sources of criminal law contained in this article. | 2 |
| (b) | Identify and explain TWO factors that may have contributed to the criminal behaviour reported in this article. | 4 |
| (c) | Assess the role of discretion throughout the criminal processes faced by Fred and George. | 7 |
| (d) | Evaluate the effectiveness of the criminal legal system in dealing with the tension between community interests and individual rights and freedoms. | 12 |

Section III — Additional Focus Studies

50 marks

**Attempt TWO questions from Questions 18–25, each from a different Focus Study
Allow about 1 hour and 30 minutes for this section**

Answer each question in a SEPARATE writing booklet. Extra writing booklets are available.

In your answer you will be assessed on how well you:

- demonstrate an understanding of relevant legal information and issues
 - illustrate your answer with examples from one or more of the following:
legislation, documents, treaties, cases, media reports
 - communicate using legal terminology and concepts relevant to domestic or international law
 - present a sustained, logical and well-structured answer to the question
-

Question 18 — Optional Focus Study 1 – Consumers (25 marks) **Marks**

- (a) In relation to consumers, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of regulation of marketing and advertising. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of the law in protecting consumers, manufacturers and suppliers. **25**

Question 19 — Optional Focus Study 2 – Family (25 marks)

- (a) In relation to the family, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of the dissolution of marriage. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of the law in responding to different family arrangements. **25**

In your answer you will be assessed on how well you:

- demonstrate an understanding of relevant legal information and issues
 - illustrate your answer with examples from one or more of the following:
legislation, documents, treaties, cases, media reports
 - communicate using legal terminology and concepts relevant to domestic or international law
 - present a sustained, logical and well-structured answer to the question
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Question 20 — Optional Focus Study 3 – Global Environment (25 marks) **Marks**

- (a) In relation to the global environment, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of the implementation of international agreements. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of legal measures in protecting the global environment. **25**

Question 21 — Optional Focus Study 4 – Indigenous Peoples (25 marks)

- (a) In relation to indigenous peoples, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of the implementation of international agreements. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of legal measures in protecting the rights of indigenous peoples. **25**

Question 22 — Optional Focus Study 5 – Shelter (25 marks)

- (a) In relation to shelter, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of the rights and obligations of landlords and tenants. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of the legal system in resolving disputes relating to housing. **25**

Question 23 — Optional Focus Study 6 – Technological Change (25 marks) **Marks**

- (a) In relation to technological change, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of the implementation of international agreements. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of the law in keeping pace with technological change. **25**

Question 24 — Optional Focus Study 7 – Workplace (25 marks)

- (a) In relation to the workplace, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of negotiations between employers and employees. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of legislation in responding to the changing needs of employers and employees. **25**

Question 25 — Optional Focus Study 8 – World Order (25 marks)

- (a) In relation to world order, evaluate the place of law in resolving conflict and encouraging cooperation, including discussion of the implementation of international agreements. **25**

OR

- (b) With reference to legal issues and remedies, evaluate the effectiveness of legal measures for the peaceful settlement of international disputes. **25**

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