

LEGAL PROFESSION ADMISSION BOARD

MARCH 2014

ADMINISTRATIVE LAW

Time: Three Hours This paper consists of **three** questions.

Candidates are required to attempt **Part A, and ONE question only from Part B.**

Part A is worth 60 marks, and all questions in Part B are of equal value (20 marks each).

If a candidate answers more than the specified number of questions in Part B, only the **first** question attempted will be marked.

All questions may be answered in one examination booklet.

Each page of each answer must be numbered with the appropriate question number.

Candidates must indicate which questions they have answered on the front cover of the first examination booklet.

Candidates must write their answers clearly. Lack of legibility may lead to a delay in the candidate's results being given and could, in some circumstances, result in the candidate receiving a fail grade.

This examination is worth 80% of the total marks in this subject.

Permitted Materials: This is an open book examination. Candidates may refer to any books and any printed or handwritten material they have brought into the examination room.

As some instances of cheating and of bringing unauthorised material into the examination room have come to the attention of the Admission Board, candidates are warned that such conduct will result in instant expulsion from the examination and may result in exclusion from all further examinations.

This examination should not be relied on as a guide to the form or content of future examinations in this subject.

PART A

Answer ALL parts of this Question

Question 1

Janet Li (Janet) runs a business assisting students to apply for university scholarships. She requires a licence under the *Student Scholarship Assistance Act 2009*, a Commonwealth Act, (SSAA) (see below). Janet has been a licensee for many years. There is stiff competition for university scholarships, and in recent years, allegations of racism and bullying have been made by university students against universities and against service providers.

The SSAA provides:

Section 3: The objects of the Act are:

- a) To license persons of good character to provide services to students;
- b) To encourage highly skilled service providers to students;
- c) To ensure integrity and professionalism in providers of student services.

Section 4: A person is eligible to hold a license only if the Minister is satisfied that the person:

- a) Is of good character; and
- b) Has and maintains relevant skills and qualifications.

SSA Regulations (Commonwealth legislation) provide:

1. All applicants for licence or renewal of licence must apply on or before the last business day of June in any year to be eligible for licence or renewal on or before 1 September of the same year. No extensions of time will be granted and no late applications will be accepted or considered under any circumstances.
2. Applicants for licence or renewal of licence must complete a minimum of 30 hours continuing professional education by the last business day of March in any year to be eligible for licence or renewal on or before 1 September of the same year.

Janet is diagnosed with a serious illness in March 2013 and has hospital and outpatient treatment over March-mid June 2013. Janet falls behind in continuing professional education, and fails to submit her license application before 30 June. She attempts to submit an application on 1 July 2013. The Minister's office rejects her application, referring Janet to SSA Regulations 1 and 2.

A student complains to the Minister about Janet, stating she is rude, unqualified and lacking in knowledge of scholarship application procedures. The student's blog is picked up by mainstream media as well as generating a large online following. The Minister's office, on receiving the complaint, writes to Janet to say that she should not ever apply again as her application for licence will be rejected on the grounds that she is not of good character and does not have the required skills to provide the licensed services.

(Question 1 continues)

(Question 1 continued)

- a) Advise Janet whether she has been treated fairly, and if not, what are her rights and avenues of review in relation to any decisions that have been made. For the purposes of this question, you should assume that there is a review right to the Administrative Appeals Tribunal. Which review route would you advise Janet to take, and why?
- b) What remedies are available to Janet, if she takes the challenge route that you advise, assuming that her challenge is successful?

(60 marks)

PART B

Attempt ONE (1) question only in this part.

Question 2

What determines the content of the hearing rule? By reference to decided cases, explain the rationale for different applications of the hearing rule in different contexts.

(20 marks)

Question 3

Explain the process for making a claim for documents or information from government agencies under the new FOI regime. How does the new regime apply to information that is available through an agency's information publication scheme? In your answer, please refer to the objects and purpose of the FOI Act, as these have been amended by the *Australian Information Commissioner Act 2010* and the *Freedom of Information Amendment (Reform) Act 2010*.

(20 marks)

END OF PAPER